E 398
.M215
Copy 1

1749

Class E398
Book .M215

Maine. Governor, 1838-1839 (Edward Kent)
Message --- on the --- northeastern bou

Jan. 7-

# STATE OF MAINE.

*To the Senate and House of Representatives.*

It being by the Constitution made the duty of the Governor, "to give the Legislature from time to time information of the condition of the State," I deem it proper to avail myself of this occasion, to lay before you, at the close of the year, a succinct account of the proceedings of the Executive, and copies of the various documents which have been prepared and received during the year, in relation to the pre-eminently interesting and important question, the North Eastern Boundary of our State. Such an exposition is due equally to the people and their representatives, who have a right to know in detail the action of their public servants, and to the Executive, who has been entrusted with an important duty and a direct agency in carrying into effect the declared will of the Legislature, and who may justly feel a natural desire, that the people whom he has served in a responsible station, and in whose judgment and justice he reposes his confidence, should fully understand his acts and the reasons upon which they were founded.

I expressed to the Legislature and the people my views of the rights and duties of this State and of the General Government, in relation to this subject, at the commencement of the year. At that time a citizen of our State was imprisoned in a foreign jail for attempting to execute a law within the limits of this State and the disputed territory. Before any proceedings on the subject by the Legislature or the Executive, after the organization of the Civil Government, Mr. GREELY was releas-

12-434

E398
.M215



ed, without trial or explanation, and returned to his place of residence in this State.

The aspect of the general question, at the commencement of the year, in reference to the diplomatic intercourse between Great Britain and the United States, and the apparent want of interest, in relation to its speedy and satisfactory termination, exhibited in the lingering correspondence which had then come to light, the apathy and indifference with which other States, except those directly interested, seemed to regard it, and the general ignorance which prevailed abroad of the grounds of our claim and the justice of our cause, all conspired to throw a cloud over our rights and an uncertainty over our prospects. No communication of any progress in the negotiation had been made for several years, and no reply to the last American proposition, made in February 1836, had been made public. And when, after nearly two years delay, an answer to that proposition was received, the result of the discussion was such a complete failure, and the negotiation between the two governments had come to such an absolute termination, that the President of the United States thought "it due to the State of Maine, and necessary to the intelligent action of the General Government to take the sense of this State, in regard to the expediency of opening a direct negotiation for the establishment of a *conventional line*." This proposition was accordingly made through the Executive of this State, and resulted in a decided expression of the Legislature against the proposal and a determination to abide by the treaty line. The only proceeding which had been had in Congress was the appropriation of $20,000, in 1837, to enable the President to run and locate the treaty line, which he had declined to do, on the ground that the law was not imperative in its terms, and he did not deem it expedient in the state of the then pending negociation. At the time of the deliberations of the last Legislature of this State upon this subject, another bill providing directly for the survey and establishment of the treaty line was pending before Congress. After declining to accede to the proposition in relation

to a conventional line, the Legislature, in a subsequent resolve, requested our constitutional Agents at Washington to urge the passage of that bill, as one demanded both by policy and justice, and believing, doubtless, that if that bill failed, and no decisive movement was made by the General Government, either alone or in conjunction with Great Britain, as therein expressed, that the time would then have arrived for Maine to assume an independent attitude and to commence the work of ascertaining, running and locating the North Eastern Boundary line. And in that contingency, it was made the imperative duty of the Governor to appoint forthwith Commissioners for that purpose and "cause the same to be carried into operation."

The same Legislature by a resolve allowed to Ebenezer S. Greely the sum of five hundred dollars, for his sufferings and losses,and requested the Governor to ask and receive of the government of the United States a reimbursement of said sum ; and also, by a subsequent resolve, allowed the sum of six hundred and seventy five dollars to John Baker and others, for sufferings and losses in consequence of organizing the town of Madawaska, and in full for all claims, and authorized the Governor to make a similar request for re-payment. In another resolve a strong anxiety was manifested for some immediate action by the General Government, in relation to the establishment of Military Posts, and the erection of Fortifications, within the limits of our State.

It was evident from these various proceedings, that the will and wishes of Maine were clearly in favor of strong representations and active efforts to bring the controversy to a conclusion, and I felt bound to use every legitimate mode, within my power, to second and secure the desired objects. Therefore, at the time when, in compliance with the requests of the Legislature, I forwarded to our delegation in Congress copies of the several resolves and documents in relation to this subject, I addressed a letter to them collectively, urging upon them the necessity of active exertions in favor of the pending bill, and explaining what I conceived to be the true intentions and views

of Maine, in assuming the attitude and directing the future course, specified in the resolves. A copy of that letter is herewith communicated, dated April 18, 1838.

The Adjutant General having made a communication to me in reference to our military defences, in order to enforce our claims to protection, and in furtherance of the objects of the resolve, I addressed a letter to the Secretary of War, under date of April 5th, 1838, enclosing a copy of the Adjutant General's communication and urging the importance of prompt consideration. The result of the application was the designation of Brig. Gen. Wool, of the Army, to make a reconnoisance and to report a plan of defence. This duty was performed by that officer, with promptitude and fidelity. A copy of his report, made to the Executive of this State, and also copies of other documents upon this subject, are herewith submitted. I have received no other information of any action by the General Government on the subject, although I had strong hopes that at least some additional posts would have been established before the present time. The documents communicated will exhibit the grounds of the request and the details of the progress and present state of this matter.

In considering the condition of the whole subject, and the attitude to be assumed by Maine, in the event of the failure of the specified action on the part of the General Government, the advantage of obtaining prompt remuneration for the money paid Baker, Greely and others, (not so much on account of the amount as the principle involved,) and the importance of awakening an interest in the question, by explanation and information given to those in authority at Washington, of the true merits of the controversy and the fixed determination of Maine to insist upon some definite proceedings to bring the matter to a close, and the manifest wish of this State to induce, if possible, the authorities of the United States to relieve Maine from the necessity of independent action, it occurred to the Executive, that the crisis called for extraordinary exertions and the adoption of some more efficient measure, than the

mere transmission of the documents to Washington. The time seemed propitious for an unusual effort, for the strong language and the expressed determination of this State had begun to awaken an interest abroad, and men's minds were turned to the subject, with a manifest desire to know the truth. By an order in Council, a copy of which is communicated, it was resolved to send a Special Agent to Washington, to cooperate with our Delegation in forwarding the views of the Legislature and the People, and in urging our claims and our determination upon the attention of the Government at that place. It was thought, that such a proceeding, in addition to the direct assistance which might be rendered to the delegation, who were pressed with other public duties towards the close of the session, would evince the sense of Maine in relation to the importance of the crisis and the necessity of national interposition. It was my anxious wish, that, if the measure failed, it should not meet that fate by reason of any want of interest or effort on our part. By advice of the Council, Charles S. Daveis, Esq. of Portland was appointed to perform the duties of Special Agent. A copy of his instructions and also of a letter which he bore to the Delegation from this State, herewith communicated, will more fully explain the nature, and objects of his appointment. Mr Daveis immediately repaired to Washington and performed the duties required, with great zeal, discretion and ability, and to my entire satisfaction, with equal honor to himself and benefit to the cause. His able Report, now transmitted to you, contains a full account of his proceedings and success, with many important suggestions in reference to the subject matter in controversy; forming all together a strong document in support of our important interests.

Mr. Daveis was also clothed with full power, to ask and receive remuneration for the money paid Baker and others. He succeeded, in conjunction with the delegation, in obtaining from Congress the repayment in full, thus securing a recognition of the lawfulness of our proceedings, and the justice of our

claim for protection in the assertion and maintenance of our undoubted right of possession. Although, in the final result, his efforts, with those of others, were not effectual in securing the passage of the pending bill, yet in many respects the effect of the various means employed was visible in the deliberations and action of Congress. The question was rescued from the death like stupor in which it had so long rested. A new impulse was given to the cause. For the first time, the whole subject was made the foundation of a Congressional report, and enlisted in investigation and debate the talents and eloquence of some of our ablest statesmen. The question became respected, and from obscurity and neglect it rose to the first rank in interest and importance. Instead of being regarded as a question involving a few acres of uninhabitable land in the far off regions of the north, and a border trouble affecting only this frontier State, it was assumed and treated as a national matter, which involved the vital interests of one member of the Confederacy, and the plighted faith and Constitutional obligations of the Union to make the controversy its own. A feeling of sympathy was manifested in various parts of the country and an expression of conviction, that Maine had a just cause too long neglected, accompanied with the gratifying assurance, that our rights must be vindicated and would be sustained by the Nation. The able and decided Report upon the question of right, made to the Senate of the United States by the Chairman of the Committee of Foreign Relations, (Mr Buchanan,) and the discussions in the Senate and House gave satisfactory evidence of increasing interest and the apprehension of the true grounds of our claim. The Resolves, finally adopted in both branches, without a dissenting vote, fully assert the unquestionable justice of our cause and the validity of our title. The postponement of the bill, providing for a survey and marking and placing monuments on the line, was unsatisfactory and in view of the whole matter, to my mind inexpedient and a denial of our manifest rights. But it would be unjust to deny that an important advance was made in the general condition of the question, by the progress of informa-

tion and conviction at Washington and in all parts of the Union. Where, as in this country, public opinion, in relation to political action is so strong in its power, it is all important to the success of any cause, that it should be enlightened and satisfied of the justice and equity of an asserted claim.

Mr Davis was also the bearer of a letter from the Governor of Maine, to the President of the United States, dated April 28, 1838, asking remuneration for the money paid and urging the importance and expediency of definite and prompt proceedings, and explaining the position which Maine had assumed, and the anxious desire which was here felt, to be relieved from the necessity of independent action. No reply to this communication has been received, but it was transmitted by the President to Congress and has heretofore been published. A copy is now laid before you.

I also herewith submit a copy of a letter from the Secretary of State to the Governor of Maine, dated May 8th, 1838, in reply to the communication enclosing a copy of the Resolves &c. of the Legislature. From this it appeared, that the President, "in consideration of the result of the application of the General Government to the State of Maine, in relation to a conventional line, and in accordance with the expressed wishes of the Legislature, had ordered a new proposition to be made to the Government of Great Britain, for the establishment of a joint commission of survey and exploration, upon the basis of the original American proposition, and the modifications offered by Her Majesty's Government."

The contents of this note were deemed by me of the highest importance, and I considered it my duty, the Legislature having adjourned, to express fully and frankly to the Secretary of State, in reply, my views of the wishes and intentions of Maine, and to protest, in decided language, against what I understood to be the purport and meaning of the language used by him, and to assure him, that after a lapse of more than half a century of negotiation, Maine asked for something more than a mere commission of exploration, without power to settle any

thing, and most solemnly remonstrated against the vital modifications of Her Majesty's Government. A copy of that reply, dated June 9th, 1838, is submitted to you, that you may be enabled to express your own views and correct any misconception of the wishes and opinions of the people, which you may discover therein.

I invite your attention more particularly to this document, as it appears by the recent Message of the President, that no reply has yet been made by Great Britain, to the proposition offered last April, although the President, in what appears to me a spirit of almost unexampled patience, expresses a belief, that the British Minister will receive powers to conclude the arrangement, without *needless* delay.

An opportunity is thus afforded, by the patienceof one government, and the obvious procrastination of the other, for the Legislature of Maine to express its own views of the character of the proposed Convention, and the expediency of assenting to it. I have communicated my objections. They were presented as my deliberate protest, and it is for you to confirm, to modify or retract it.

A copy of the answer to this communication from the Secretary of State, dated June 28, 1838, enclosing a copy of his letter to the Hon. Mr. Williams, as explanatory of the nature of the proposition, is now communicated to you. It is for you to judge, whether any beneficial effects, equal to the inconvenience and injury by the great delay which must be occasioned, are likely to result from a mere commission of exploration and survey only, of the whole extent of the line, from the head of the St. Croix to the northwesternmost head of Connecticut River, especially since the examination and survey, which have been made during the past season by Maine, of the most important part, which had not been sufficiently examined before. My own views upon this point are fully expressed in the note which I had the honor to address to the Secretary of State, that, "after fifty-five years of procrastination, it is reasonable to ask, that whatever movement is made should have a

direct and unavoidable tendency towards a final settlement, and not, when ended, leave the parties upon the same spot from which they started." With these explanations and documents, the whole matter is submitted to your consideration, that you may give such an expression of opinion on the subject, as to you may seem proper, and such as the honor and rights of Maine may, in your view, demand.

The assumption of a right to exclusive and absolute jurisdiction, by the government of New Brunswick, over the whole territory north of the sources of the Aroostook and St. John Rivers, and the establishment of a Wardenship over the same, by the concurrence, as is asserted, of the President of the United States, and the exercise of authority within the same limits, have been the subject of frequent objection and loud remonstrance on the part of this State. I have not considered that the honor or faith of the State required of any of its officers to acknowledge the existence of such a right to exclusive jurisdiction, or the authority of such a Warden. Under the very judicious and liberal law of last winter, in relation to the settlement of the public lands, it was deemed expedient that several townships should be surveyed into lots for settlers. Several of those townships are north of the line that has been claimed by Great Britain, and also of a line due west from the latitude of Mars Hill, which has been sometimes assumed, (upon what ground I am at a loss to understand) as the true divisional line.

Under the direction of the Land Agent and Governor and Council, Townships No. 10 and 12 in the 5th range west of the east line of the State, upon the Aroostook waters, have been surveyed into lots by the Surveyor General and his assistants, and fifty two lots have been sold and conveyed in No. 10, and three in No. 12, and thirty-five in No. 4, all in the said 5th Range. Many other lots have been applied for in that section, a strong interest has been excited, and emigration has been turned in that direction.

The public curiosity, awakened in part doubtless by the contradictory reports, or rather assertions in relation to the Aroos-

took territory, seemed to demand a correct exploration, and Dr. Ezekiel Holmes, well known as a scientific agriculturalist and geologist, was employed by the Board of Internal Improvements in that service. An account of the character of this section will be found in the full and satisfactory report made by him, which will be laid before you, and which I think will clearly show, that this virgin soil is unsurpassed in fruitfulness and capacity of production by any other section of our State.

I refer you to the lucid report of the land agent for particular information relative to the progress of the sale and settlement of the land in this region.

In that document will also be found an account of the active and efficient measures, adopted by that vigilant officer to break up the parties, who had made their preparations and commenced trespassing on the Aroostook lands, belonging to this State. It is encouraging and satisfactory, that this first attempt to interfere directly with such unlawful acts resulted in so great success; and there can be no doubt, that hereafter, as the means of communication are increased by vigilance and determination on the part of the State Authorities, this system of unauthorized and lawless plundering can be prevented.

Although the Legislature at its last session, by the non-concurrence of the Senate, declined making any appropriation for the continuation of the Aroostook Road, the Land Agents of the two States, under the authority vested in them, have caused the road to be perfectly made to the 30 mile tree, and to be prepared for a winter road to the Aroostook River. I refer you to the Land Agent's report for the particulars.

These various steps of locating lots and giving deeds to actual settlers, preventing trespasses and continuing this very important road, have confirmed and established our possession and jurisdiction of this valuable territory, and opened for our young men a field of enterprise, where industry and economy can realize their appropriate rewards. I cannot doubt that every citizen of the State will concur in the expediency of immediately taking measures to continue the survey of townships into

lots and the sale to actual settlers, and to continue, also, the road to the St. John River. Reasonable encouragement to new settlers, which should always be the policy of the State, and a firm determination to protect them, will soon fill this fertile region with hardy and intelligent men, who are the true strength and defence of our State.

During the progress of the Surveys, a person, assuming to be "Warden of the disputed territory," delivered to the Surveyor General of this State a written protest, a copy of which is herewith transmitted, together with a copy of the reply of the Surveyor General, denying his right and asserting his own determination to fulfil his instructions. No other interference was attempted.

The contingencies named in the Resolve in relation to the Boundary not having occurred, and no action on the part of the General Goverment having been had as therein contemplated, on or before the first day of September last, it became my duty "to appoint forthwith suitable Commissioners and Surveyors, for ascertaining, running and locating the North Eastern Boundary line of this State, and to cause the same to be carried into operation." I accordingly, on the third of September last, appointed and commissioned John G. Deane, Milford P. Norton and James Irish Esqrs. Commissioners, and Wm. P. Parrott, Esq. Surveyor. In considering the proper instructions and deciding upon the most expedient course to be pursued in commencing the work required, and the most useful mode of operation during the short time remaining of the season, I was led into an investigation of the actual facts in relation to former surveys and explorations. A condensed account of those surveys, contained in the various documents to which access has been had, will probably be interesting, as bringing to light facts but little known, except to those who have deeply investigated the subject, and bearing directly upon the question of the correctness of the course finally adopted by the Executive.

In 1817 when the Commissioners of the two Governments, appointed under the 5th article of the Treaty of Ghent, viz :

Thomas Barclay on the part of Great Britain and C. P. Van Ness of Vermont on the part of the United States, met to proceed upon the business before them, it was mutually agreed by the Agents of the two governments and ordered by the Commissioners, that "an *actual* survey of the due north line from the source of the St. Croix, and an *exploring* survey of said line and of the highlands, which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean," should be commenced and completed. Accordingly instructions were given to the Surveyors of both governments to repair to the Monument, at the source of the St. Croix, and select one party from each company to commence the *actual* survey of said boundary line from the Monument, and run the same due north upon a meridional line to *proceed until further orders*, the survey to be made by them separately and the line to be agreed upon by both. This survey was under the direction of Charles Turner Jr. on the part of the United States and Colin Campbell on the part of the British Government.

Another party under the direction of the principal Surveyors, viz : Col. Bouchette on the part of G. Britain and John Johnson on the part of the United States was directed, whilst the *actual* survey was in progress, "for the purpose," as the instructions say, "of obtaining such information concerning the probable extent of the meridional line as also the courses and distances of the line along the highlands to the Northwesternmost head of Connecticut River, to proceed upon an exploring survey, upon a line due North from the Stake already mentioned, (the monument) *until they arrived at some one of the streams or waters which are connected with the river St. Lawrence*, and explore the different highlands which lie between the last mentioned line and the Northwesternmost head of Connecticut River, and also to explore and ascertain as near as practicable the sources of the various streams which rise between the line last mentioned (the due North line) and the Northwesternmost head of Connecticut River and empty themselves into the St. Law-

rence or the Atlantic Ocean, and also the elevations and prominent features of the land which divide said streams or waters."

It may be noticed, in passing, that the language of these instructions very plainly indicates, that at that time, no doubt was entertained that the due North line extended to the waters of the St. Lawrence, as the language is not that of the treaty even,—but the instructions distinctly speak of the waters of the St. Lawrence being found *in a due North line.*

Under these instructions the *actual* survey was commenced from the Monument in 1817, and proceeded about 20 miles. The surveyors, however, at times differing, and probably at last ascertaining that they had made some mistakes, abandoned the work.

The Surveyors made separate reports in 1818, as appears by the Journal of the Commissioners, which were ordered to be filed.

After the reports were made to the Commissioners, of the actual survey, they did, on the 20th of May 1818, order, that the actual survey and marking of the due North line be suspended "until the Astronomers can revise and if necessary correct the same." I have not been able to find that either Astronomers or Surveyors ever went on again to this line, designated as the *actual* line, or that any thing more has been done in relation to it.

Col. Bouchette and Mr. Johnson proceeded with the *exploring* line in 1817 across the St. John to 99 miles from the Monument, and made separate reports of their doings. At the meeting of the Commissioners in 1818, apparently for the first time, the British agent suggests doubts whether the due North line of the treaty will extend to the St. Lawrence waters, and proposes to discontinue the further survey and exploration in that line and return to the region of Mars Hill, and explore from thence westwardly, by the sources of the Aroostook and Des Chutes, and thence towards the sources of the Chaudiere and the Kennebec, where the agent alleges, he has good cause to believe that the highlands contemplated in the treaty will be

found. This new proposition was resisted by the American agent, he alleging that the highlands of the treaty would be found at the extremity of the due North line, if run, as first agreed upon, and that a survey *from thence along the highlands* would demonstrate it. Although the request of the British agent was not in terms granted, yet the result was nearly the same, as the surveyors were ordered to finish the exploring survey of the due North line, and not to proceed at all Westwardly along the highlands, but to return immediately to the region of Mars Hill, and commence the exploration of the highlands at that point, according to the suggestion of the British agent. Accordingly, in 1818, Mr. Johnson and Mr. Odell (who had been substituted for Col. Bouchette,) proceeded to run the exploring line from the point where it was left the former year,to Beaver or Metis River, which empties into Lake Metis and from thence into the St. Lawrence, and having arrived at that stream, without exploring or running along the highlands from that point, according to the first instructions and the terms of the treaty, they returned to Mars Hill. And it is a singular fact, that after that time, no American Surveyor, or authorized Agent,has ever examined or traced the height of land, or given any account of the character of the country about the Northwest angle of Nova Scotia. It seems as if both parties most studiously avoided that point, which was the most important of all, and the subsequent surveys continued through 1819 & 20, were almost entirely confined to the examination of isolated hills and imaginary ranges South of the St. John.

The Surveyors who run the exploring line are very brief in their descriptions of the country at and about the Northwest angle. Mr. Odell, the British Surveyor, says—"that on the borders of Beaver Stream, where the line intersects it, is a piece of low, wild meadow. At a short distance from the stream, on both sides, the ground rises moderately, but the elevation is very small and there is no appearance of highlands."

Mr Johnson, in his report, says "proceeding North (from 132 miles) the land continues very high and not very uneven

to 144 miles 26 chains, where the land is nearly as high as at 132 miles, and is the ridge which divides the waters emptying into the River St. Lawrence from those which fall into the Atlantic Ocean. On the top of this ridge is a large yellow birch tree. From this point to Beaver Creek (Stream,) there is a general and very considerable descent, interrupted by a few places of rising ground for short distances."

It is true, that near the close of the surveys, the American Agent obtained an order for some explorations North of the St. John, but they resulted in a rapid visit by Mr Burnham and Dr Tiarks to Beaver Stream and Lake Metis, and two or three other spots at the portages, where of course the land was the lowest. Mr. Burnham in his report says, that he adopted that course of visiting distinct and separate places, by going directly to them and returning, being under the impression that he "could not trace the division of waters from Beaver Stream to the Grand Portage in season to report before the meeting of the Board." There were some other slight examinations of the Portages by Mr. Johnson and Capt. Partridge, but no exploration *along* the highlands from the N. W. angle towards the head of Connecticut River.

Thus with imperfect and unfinished surveys on our part, the question was submitted to the Commissioners, who disagreed, and afterwards to the Umpire, who was not satisfied with the evidence, and who, as Mr. McLane says, "is not understood to have found it impracticable, at least to his own satisfaction, to find highlands answering the description of the highlands of the treaty, but his embarrassment arose from not being able to find them in a direction due north from the monument."

It is a fact worthy of notice, that this State and the Commonwealth of Massachusetts, by their Land Agents, have surveyed and examined the whole line as claimed by Great Britain from Mars Hill to our western boundary, but have never, until the present year, attempted any examination of the true line, as claimed by us.

Although our claim does not depend upon the height of the

hills or land, and an elevation sufficient to turn the waters flowing in different directions satisfies the terms of the treaty, yet it is not to be disguised, that from the want of actual information of the facts, the assertion has been made and repeated, that the treaty line is *impracticable*, and that the character of the land is such that no dividing range can be found. It is remarkable, in looking back upon the diplomatic correspondence, that we find so much evidence that the objections to our claim rest so materially upon the obscurity and contradictions, and allegations without proof, relative to the face of the country, at and near the Northwest angle.

The very extraordinary suggestion made by Mr. Livingston in 1832, to seek the highlands *west* of the due north line, if not found in that line, was apparently founded on want of accurate information of the true character of the country. The British Minister, (Mr Vaughan,) as might have been expected, in reply speaks of "the obscurity, which after all the endeavors of the two governments, still rests upon the position of the highlands." Mr. McLane, our Minister, in again urging the views of Mr. Livingston, after alluding to the claim of Great Britain, that the highlands should be sought for exclusively *south* of the St. John, and the American claim that they should be sought *north* of that river, makes the following remarkable declaration: "It is the difficulty of reconciling these conflicting pretensions which has hitherto prevented the settlement of the boundary question, *arising chiefly however from the impracticability* of finding a point of highlands answering the description in the treaty, to which a line due north from the Monument could be drawn."

Mr. Vaughan in reply again alludes to this point of the impracticability of the due north line, and he broadly asserts, that "every thing which is known of the geography of the country tends to show that no such highlands can be found in that particular meridian," and he says "the American Government, *almost admitting the fact*, suggests that the required highlands should be sought for in a northwesterly direction from the ascertained spot." He also adds, "that to carry the treaty strict-

ly and literally into execution is physically and geographically impossible."

Mr. McLane again urges the idea of a departure from the true north, and says:

"The proposition of the President is to find the highlands answering the description of those called for by the treaty of 1783, and to them, from the monument, to run a direct line, and the President does not doubt, that with the aid of more accurate surveys, by skilful persons on the ground, and *freed from the restraint hitherto imposed by a due north line*, such highlands may be found."

Other expressions of similar import, in relation to the asserted impracticability of the treaty line, may be found in other parts of the correspondence in 1835 and 1836.

In the recent renewal of the correspondence between our Government and that of Great Britain, Mr. Fox, the British Minister, in his letter of January 10th, 1838, says: "The British Government, despairing of the possibility of drawing a line which shall be in literal conformity with the words of the treaty of 1783, has suggested that a conventional boundary should be substituted for the line described by the treaty." This is but a repetition of the idea, contained in Mr. Vaughan's note of May 8th, 1833, that the description of boundary contained in the treaty is *defective* and should be abandoned.

Finally—in the note from Mr. Forsyth to Mr. Williams, one of our Senators in Congress, before referred to, he (Mr. Forsyth) states, that the object of the President in offering to make the last proposition for an exploring survey "is to test the correctness of the opinion of the State of Maine, that the line described in the treaty of 1783 can be found and traced, whenever the Governments of the United States and Great Britain shall proceed to make the requisite investigations, with a predisposition to effect the desired object."

In deciding upon the course to be pursued, and the instructions to be given to the Commissioners, it seemed to the Executive, considering the shortness of the time remaining after the

appointment of the Commissioners and the preparations for the expedition, the want of suitable instruments for accurate and exact surveys, and the small part of the actual line which could be run and located, during the past season, and more especially considering the mystery and uncertainty, which diplomacy and management had thrown over the character of the country about the often named angle, and the importance which had been given to this want of information, both by our General Government and that of Great Britain, the anxiety manifested by the Legislature of Maine in 1837, and the high probability that an examination of that section would dissipate all doubts and remove all uncertainty, and would supersede the necessity of any further explorations by either Government, which would delay the settlement of the question, that it was advisable, to act, in the first instance, upon that part of the resolve which requires the Commissioners to "*to ascertain*" the true line, and to direct an examination of the country about the north west angle of Nova Scotia, particularly the height of land west therefrom. Instructions to the Commissioners were accordingly prepared to that effect, a copy of which is herewith submitted, and to which I refer for particulars, in relation to the acts to be performed, and the course of conduct to be pursued, in discharging their duties.

I was strengthened in my belief, that this course would meet the wishes of the Legislature and people, and be productive of the most benefit, by the decided expression of nearly similar views in the report accepted by a former Legislature in 1837. I would refer to the whole report, and will quote but a single paragraph. After saying that: "In all our inquiries and examinations of this subject there has been great negligence in regard to this Northwest Angle," the report continues: "It is indeed time for us to begin to search, and in the right place too, in order to put a stop to these perpetual encroachments upon our territory and rights. Our first object should be to ascertain and trace the *north boundary of Nova Scotia*, which is the south boundary of the Province of Quebec, and see if

Canada comes as far down as Mars Hill. And we should proceed to finish taking the elevations on the due north line, to some point where the waters divide. The General Government should be immediately called on to execute the work, with the co-operation of Massachusetts and Maine. Notice should be given to the British authorities to unite in the undertaking, and if they refuse, our government ought to proceed *ex parte*. The act would be entirely pacific, as the object would be to *ascertain facts*, much more pacific than the survey, *without notice*, of the St. Andrews and Quebec railroad through our territory—not for the purpose of ascertaining a boundary, but to assume jurisdiction."

In connection with the instructions to the Commissioners, I also transmit a copy of a letter from the Governor of Maine to the Lt. Governor of New Brunswick, containing the substance of the instructions, relative to the exploring survey, and the answer of Sir John Harvey. The Legislature, not having provided for any joint action by Maine and N. Brunswick, no suggestion of that kind was made by me. And as we claimed an undoubted right, without concurrence or assent, to ascertain facts and run the line, no such assent or concurrence was asked, but a plain and simple statement of what was intended to be done by the Commissioners, under the then "present instructions," was given. It seemed to me, that such a course was equally consistent with the honor and the best interests of the State.

As I have elsewhere said, I believe that "on this subject we have no ulterior views and no concealed objects. Our plans and our policy are open and exposed to the view of all men. Maine has nothing in either to conceal or disguise." I confess myself to be one of those, who have little faith in the importance of formal observances, or in the mysteries of diplomacy. I believe that in transactions between States, as well as individuals, much ill blood and many unfortunate disagreements, and irreconcilable quarrels, ending in open war, might have been prevented by frank disclosures of intentions and motives,

and the simple course of plain dealing with each other, and the faithful observance of that golden rule, which, although perhaps it is not found in the codes of national law, or the rules of diplomatists, is yet worth them all—"Do unto others as you would that others should do unto you."

I was also anxious that, if any difficulty or collision should arise between the Commissioners, clothed with authority by this State, and the officers of the Province of New Brunswick, there should not be afterwards any occasion to complain of want of information of our real intentions, and the actual instructions, or any such assumed justification for proceedings based upon imaginary facts.

The answer of Sir John Harvey, although couched in courteous language, according with the well known high and honorable character of that officer, will yet doubtless command your attention and deliberate consideration, as expressing in frank and decided language, the character and extent of his instructions, relative to maintaining the jurisdiction of the disputed territory.

The Commissioners and Surveyor, having received their instructions, and made preparations for the expedition, immediately repaired to the point designated, and with zeal and fidelity continued in the performance of the duties assigned them, until the severity of the weather compelled them to return. Their report, which I have the pleasure to transmit to you, will be read with interest and satisfaction. By that it appears, that the exploring line was found marked to near the north west angle; that the base of the country rises constantly and regularly from the monument at the head of the St. Croix to the angle, which is from two to three thousand feet above the level of the sea, and more than 500 feet higher than the Kedgwick, one of the streams running into the Bay of Chaleur near the said angle and the St. Lawrence waters; that the due north line, if continued to the valley below the N. W. angle, actually strikes the St. Lawrence waters, and that the country is high, and even mountainous about this spot. And there is no difficulty in tracing a line west-

wardly along distinct and well defined highlands, dividing waters according to the words of the treaty. The extensive and correct map of the north part of our State and the southern portion of Canada, and the vertical section, as prepared by Mr. Parrott, the Surveyor, with neatness and accuracy, which accompany the report, add much to its value and interest. Taken together, they exhibit the true character of the country, and leave little or nothing to be desired illustrative of it.

I had at one time intended to give further and final instructions to the Commissioners in relation to their future operations. But as the Resolve is in full force, and will be, until repealed, and as no further operations could have been carried on the past year, I have not thought it expedient, and it might have been deemed improper for me, to anticipate the action of the Legislature or Executive of the present year. The Commission is in existence and the Commissioners subject to future direction.

A part of the expenses of the survey has been paid out of the contingent fund, by the Governor and Council, but as no specific appropriation was made to meet these expenses, the charges will be subject to your determination. It will be seen by the instructions to the Commissioners, that all compensation for service, was made to depend upon your decision.

In this communication, I have confined myself to the single purpose of information and explanation relative to the acts of the Executive. In my present position it may not belong to me to assume, according to the provision of the constitution, to recommend to your consideration such measures as I may judge expedient, or to advise in relation to the future action of the State. I will however venture to remark, that it is evident that Maine must maintain her own interests and rights, by urgent appeals and a determined course, and cause her claims to be respected, by unremitting vigilance and unyielding perseverance. The time for mere abstract disquisitions, upon the question of right, has passed. If facts and arguments can ever establish any

position, our right is established, to the satisfaction of all unprejudiced and disinterested men. It now remains only to assert and enforce it, practically and efficiently, to demand that justice and protection which is due from the General Government to a member of the Union, and to maintain, inflexibly, our right to the possession and jurisdiction of our whole State, according to the treaty of 1783.

I have thus finished the exposition which I intended, and performed what seemed to me a duty, but which may by some be regarded as uncalled for and unusual. In retiring from responsibilities, which I did not seek, and most cheerfully surrender, although I may not be at liberty to infer that my course and policy upon this subject have met the entire concurrence and approbation of the people of this State, yet I cannot but feel an assurance that something will be allowed to the difficulties of my position and to the anxious desire, which I have felt to maintain and advance the rights of the State involved in this great question. Whatever may be the final issue of events, in relation to our claim, I trust I may indulge the belief, that during the short time I have been connected with the Government, in this matter, at least, "the Republic has received no detriment."

EDWARD KENT.

COUNCIL CHAMBER,
January 2d, 1839.

NO. 1.

# STATE OF MAINE.

EXECUTIVE DEPARTMENT, }
AUGUSTA, APRIL 18, 1838, }

*To the Delegation from Maine, in the Congress of the United States.*

GENTLEMEN—: You will individually receive from the Executive of Maine a copy of sundry documents in relation to the North Eastern Boundary question, which, I have no doubt, will receive from you all the attention their importance demands. The Legislature has spoken in a language not to be misunderstood or misinterpreted, and I feel a perfect assurance that the people of Maine respond to those sentiments. *No departure from the treaty line*, is the emphatic motto of Maine, and by that line she will abide, until its impracticability is demonstrated, or some definite and specific proposition for a line, equal in territory or privileges, is made, as suggested in my Message. Maine steadily opposes, as you will perceive, any new proposition on our part for a conventional line.

You will see that the Legislature has taken an important step in relation to running the treaty line, and it is to that part of their proceedings to which I would invite your attention, as bearing most directly upon the question now before Congress. I have thought that a construction might possibly be given, or an inference drawn, against the facts and the real intentions of our State, from that provision, which requires the Governor, in a certain contingency, to run the line, under the authority of the State. If any one should imagine, or allege, that Maine is anxious or desirous to assume this attitude, or to take this matter from the General Government, or is indifferent whether the United States or Maine appoint the Commissioners to run this line, I can only say, that I have no doubt, he would entirely mistake the wishes and feelings of this State. The strong and unanimous wish of Maine is, that the Bill now before Congress should pass into a Law and be fully executed by the authority of the United States.

We think we have a right to demand this, as an act of justice to us as one of the States of the Union. We feel that expediency and interest both point to this course, as the best and the safest. I assure you that the people of Maine look with intense interest to the action of Congress and the Executive upon this subject, and that their earnest and unquestionable wish and hope is, that the United States will go forward in the work. Maine does not seek or wish to act independently of the United States, but feeling that it belongs properly to that Government to run the treaty line,

she will most reluctantly give up the hope, that it is the intention of the powers at Washington to do it. The question is now before you, under the Bill in progress in the House of Representatives, and I trust I shall not be deemed intrusive or officious in urging upon you, in behalf of the whole people of Maine, to use your unremitted endeavors to insure the passage of the Bill, or some provisions by which the object therein contemplated may be effected. The question is a national one, and the action thereon ought to be national. Our neighbors of New Brunswick and the British Government ought to understand, that the Commissioners to run the line act under the authority of the United States, and will be sustained by that Government. So long as they believe or suspect that Maine is not acting in accordance with the wishes of the United States, and stands upon her own responsibility, alone and unsupported, we must expect a repetition of outrages upon our rights and the persons of our citizens and agents. But it is unnecessary, and may be deemed presumptuous in one to suggest to you in detail, the various reasons which so strongly urge immediate action on the part of the General Government. They must be apparent to every person acquainted with the present state of the controversy, and who looks forward to the probable issue of events, should the State proceed to execute her expressed determination. The Legislature, I am well persuaded, by the Resolution referred to, intended to express a fixed determination to bring this question to a final issue, and the opinion, that if the present Bill shall be rejected, by Congress, and no movement made either by Congress or the Executive, that Maine would be justified in regarding such neglect as a distinct avowal of a determination not to interfere in the manner proposed, and that, in that event, Maine owes it to herself to move in the matter upon her own responsibility. But no just inference can be drawn that Maine intended to absolve the United States Government from the duty and responsibility, which she believes rests upon it, to come forward as principals in the matter and the course proposed is clearly intended as a last resort to assert our rights, all other measures failing. But the determination of Maine is fixed, and so far as rests upon me, her will and wishes, as expressed by the Legislature, shall be of binding force and be faithfully executed. But I cannot but feel, that if we are driven to assume this responsibility, and to go forward unaided and unsupported, the General Government will be justly chargable with neglect of a Constitutional duty and an abandonment, in the moment of peril, of one of the States of the Union, whose claims have already been too long postponed, and too lightly regarded. It becomes us all, permit me to say, to whom any portion of power has been delegated, to do all that we can to urge our claims to protection and our right of possession, upon the

General Government, so that if we resort, in self defence, to independent action, there may be no imputation upon our State of neglect in setting forth her claims or declaring her ultimate determination. I have no other apology to make for this somewhat unusual mode of address, than such as may be found in the nature of the suggestions made, and the importance of the subjects discussed. It gives me great pleasure to state, that the movements and proceedings of our Delegation in Congress, during the present session, on this question, have been, I am confident, highly satisfactory to the people they represent; and the citizens of Maine look to them with confidence, as the Guardians and Asserters of their rights, to persevere with renewed and redoubled energy and determination to procure the passage of the law, which shall secure the immediate action of the General Government in the survey of the line designated by the treaty of 1783.

With much respect,
I have the honor to be,
Your obedient servant,
EDWARD KENT.

To Hon. JOHN RUGGLES,
" " REUEL WILLIAMS,
" " JOHN FAIRFIELD,
" " F. O. J. SMITH,
" " GEORGE EVANS,
" " THOMAS DAVEE,
" " H. J. ANDERSON,
" " J. C. NOYES,
" " EDWARD ROBINSON.

---

## NO. 2.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT,
APRIL 5, 1838

*To the Hon. Joel R. Poinsett, Secretary of War of the United States.*

SIR:—I have the honor to inclose a communication made to the Executive of this State, by the Adjutant General, on the subject of the establishment of a Military Post in the vicinity of the boundary line between Maine and Canada. The frontier of Maine adjoining New Brunswick and Canada, is more than six hundred miles in extent. Upon the whole of this line the Government of the United States has established but a solitary post, and this is near a fixed monument, and where there is no controversy relative to the rightful possession of the soil. The rights and peculiar situation of Maine, the interest of the United States, and the peace and security of our citizens, require that Military

Posts should be placed at intervals upon this line. Such a policy, it is believed, will aid the argument in favor of our claim to the disputed territory, and lead to an early and just settlement of it. The perpetually recurring troubles upon our borders admonish us, that the time has come when our dignity and safety require that we should assume an attitude of armed observation, if not of defensive preparation. I have been informed *from a source entitled to credit*, that the British Government are making preparations for a Military Post at Woodstock, N. B. about twelve miles from our acknowledged boundary line, and that a considerable force will be stationed there, and the force at Fredericton is to be increased. I cannot but think that such facts are calculated to arouse the United States Government to immediate investigation and action. One Post, as the inclosed paper suggests, may be advantageously established near the North West end of Moose Head Lake. This is a large sheet of water now navigated its whole length, forty seven miles, by a steam boat. This post may be important in connection with the attempts to preserve neutrality on our borders, as I understand there is a mountain pass near this place, which commands the passage to and from Canada. I would respectfully suggest for your consideration the expediency of causing an immediate reconnoisance and examination, by some scientific and practical military men, of the interior of our State, for the purpose of fixing upon suitable locations for additional posts. I shall be most happy to aid, in every way in my power, the Government of the United States in prosecuting such examination. I will only add, that the people of this State feel a deep interest in the subject, and look with confidence to the General Government, to take prompt measures for the defence of our frontier, and I therefore trust I shall be excused in earnestly calling your attention to the subject.

I have the honor to be,
very respectfully,
your obedient servant,

EDWARD KENT.

---

NO. 3.

His Excellency Edward Kent,
Governor of Maine:

*Dear Sir:*—Permit me to call your attention to the subject o fortifications in our State. Our long disputed question of Boundary, as well as recent occurrences in neighboring provinces, should remind us of the importance of preparing such works as

may be necessary to the protection of our own soil, as well as the performance of our duties of neutrality to foreign nations.

Exposed as we are to foreign invasion, having a frontier on the seaboard and inland, of more than one thousand miles, and being almost entirely destitute of public works for defence; the propriety of calling upon the National Government to take measures for the projection and erection of such military establishments as our peculiar location requires, cannot be doubted.

Our sea coast has been partially examined; and works in part, destined to protect this portion of our territory, have been projected. The completion of these, and the erection of such others as are necessary to render our Atlantic border secure from hostile invasion, are objects highly interesting to the people of our State.

No military works have yet been erected on our inland frontier, with the exception of the small post at Houlton; and when it is considered that at many points on this extensive line we should be exposed to attack, in case of war with our northern neighbors, it would seem highly important, that measures should be adopted by the general government to render this portion of our State secure.

The post at Houlton is an important location, and will, if its force is sufficiently increased, add greatly to the security of our eastern border. On this line we want another post at or near the Saint John's river; and one or more additional ones will be required, when our northeastern boundary shall have been finally settled.

But our most exposed point at this time, is on our northwestern frontier. We have no military establishment on any part of this line. Should our country ever again be at war with Great Britain, the whole military force of that empire in North America might concentrate at Quebec. The country up the Chaudiere and Du Loup, nearly to the boundary line, is open, with good roads; and from thence an invading army might, by way of the valleys of our lakes and rivers, reach our towns on the Kennebec and Penobscot, as well as other parts of New England, with comparative ease. A military post, therefore, at a point to guard the mountain pass between our State, and the province of Lower Canada, in this direction, is indispensable to the security of our State and nation.

It is not known that any exploration has been made of this portion of our State by authority of the United States, with a view to the establishment of defensive works.

Should the attention of the National Executive be called to this important subject, it is believed that a thorough examination of our inland frontier by those of suitable military and scientific

knowledge would be ordered, and that it would result in the establishment of such posts as our situation demands.

With respect, your obedient servant,

A. B. THOMPSON, Adj. Gen'l.

ADJUTANT GENERAL'S OFFICE,
Augusta, April 5, 1838.

No. 4.

WAR DEPARTMENT,
May 1st, 1838.

SIR:—The Secretary of War being still confined to his house by indisposition, I have the honor to acknowledge the receipt of your Excellency's communication of the 5th ultimo, enclosing one from the Adjutant General of Maine.

In reply I have the honor to inform you that measures will be taken for having the reconnoissance, recommended by you, made at as early a period as practicable, and as you kindly proffer any aid in your power, the Officer who may be charged with this duty will be directed to apply to you should it become necessary.

Very respectfully, your most obt. svt.

S. COOPER,
Acting Secretary of War.

His Excellency EDWARD KENT,
Governor of Maine, Augusta, Maine.

No. 5.

HEAD QUARTERS OF THE ARMY,
WASHINGTON, MAY 12, 1838.

SIR:—:I have received from the War Department a communication addressed to the Secretary of War by His Excellency Edward Kent, Governor of the State of Maine, dated the 5th of April 1838, covering a letter from the Adjutant General of that State to His Excellency on the subject of the defenceless condition of Maine; copies of which papers are herewith transmitted for your information.

You will, as soon as you are relieved from your present duties by Colonel Cummings, who will receive orders to that effect, repair to the State of Maine, and after making a reconnoisance with a view of ascertaining its military features and resources, project a plan for its defence by the establishment of such military posts and communications as may appear to you proper for the purpose, stating what points you may judge of the first importance and immediately to be attended, to and those of a secondary character, including arsenals and depots of arms and munitions; you will also state what in your opinion may be the necessary force for a peace and war establishment for that section of the

Union. I deem it unnecessary to be more particular, believing that you are well acquainted with the general object of this communication.

Very respectfully, Sir, your obedient servant,
(signed) A. MACOMB.
M. G. Com. Chief.

Brig. Gen. J. E. Wool.
Inspector General,
Troy, New York.

---

No. 6.

HEAD QUARTERS,
Bangor, Maine, 26th July, 1838.

To His Excellency EDWARD KENT,
Governor of Maine:

*Sir:*—Having completed the military reconnoisance of the Frontier of Maine, I shall take my departure tomorrow for my residence at Troy, New York.

I have already informed you of the posts I would establish for the defence of the frontier of Maine. Viz—A post in the vicinity of Moose river on the Canada road, 14 miles from the line, with an advance post on the height of land which divides Canada from Maine. Kennebec forks I would recommend for a depot and place of concentration for the militia residing on the waters of the Kennebec. I would also, in case a road should be made to Moose Head Lake from Moose River, where the Canada road crosses it, recommend an additional depot at the foot of Moose Head Lake. I would increase the force at Houlton to five companies of Infantry and one of Artillery. I would establish eight companies of Infantry and two of Artillery at Calais, and two companies of Infantry and one of Artillery at Eastport. An Arsenal at or in the vicinity of Bangor, with fortifications at the entrances of the Penobscot and Kennebec rivers. Calais and the Mattawamkeag village I would designate as depots and places of concentration of the Militia residing on and east of the Penobscot river.

The posts designated and the force suggested is wholly in reference to the present unsettled state of the boundary question, which I conceive involves considerations of the first importance, not only to Maine, but to the United States in general. In whatever light the British Government may view the subject, it is well known that the inhabitants of New Brunswick and Lower Canada are determined upon having a large portion of the disputed territory. This determination of the people of the two provinces may lead to war. Therefore until this question is settled, we ought to be prepared in some degree to defend that in which all

concur rightfully belongs to the State of Maine. My reasons for establishing a regiment of Infantry and three companies of Artillery at Calais and Eastport have been verbally communicated to your Excellency, and which I believe entirely met your approbation.

With the above observations I would request from your Excellency, as soon as it can be done, a return of the number of militia which could be concentrated in the course of ten or twenty days at the Kennebec forks, Mattawamkeag and Calais. In other words, the militia force which could be concentrated in ten or twenty days at each of the above places without going beyond the legitimate range of each district.

Please to direct your communication to me at Troy, New York.

I have the honor to be, with considerations of the highest respect, Your most obedient servant,

JOHN E. WOOL,
Brig. Gen. U. S. Army.

---

## NO. 7.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT,
AUGUSTA, AUGUST 11, 1838.

*To Brigadier General,*
*John E. Wool, U. S. Army.*

SIR:—In compliance with the request made in your communication of the 26th ultimo, I have the honor to state, that after examining the inspection rolls and other returns of our Militia, and obtaining the opinion of the Adjutant General of this State, I am of opinion that we could muster, in ten days after the issue of orders, the following number of Militia Officers and Soldiers.

| | | |
|---|---|---|
| VIZ. | At the Forks of the Kennebec, | 4,500 |
| | At Mettawamkeag, | 4,000 |
| | At Calais, | 2,500 |
| In twenty days | At the Forks, | 12,000 |
| | At Mettawamkeag, | 10,000 |
| | At Calais, | 8,000 |

This calculation is made upon the supposition that the Militia is called out by Regiments and Brigades, and not drafted. In the latter case we could obtain the same number, but not in the same time. Our whole number of Militia, by the last return, is over 41,000. The arms and equipments of our Militia, now in use, are not suitable for active service. The Muskets in partic-

ular, are too light and small and would not bear active use. We have however in our State Arsenal at Portland,

9,000 Muskets,
2,200 Rifles,
350 Pistols,
850 Swords,

and a good supply of equipments, all suitable for use, furnished by the United States. The United States Arsenal at Augusta contains, as you know, a large number of Muskets and Rifles.

I have the honor to be, with great respect,
your obedient servant,
EDWARD KENT.

---

No. 8.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT.
Augusta, April 28, 1838.

To His Excellency MARTIN VAN BUREN,
President of the U. States:

*Sir:*—I have the honor to enclose to you a copy of a Resolve of the Legislature of this State, in favor of Ebenezer S. Greely. Also a copy of a Resolve in favor of John Baker and others; and in compliance with the request of the Legislature, I ask of the Government of the United States a reimbursement of the several sums allowed thereby, which several sums have been paid by this State to the individuals named in the Resolves. The justice and propriety of granting this request, I can have no doubt, will be apparent to you and to Congress, when the circumstances under which the allowances were made are called to mind. Mr. Greely, acting as Agent under a law of this State, authorising and directing a census to be taken in unincorporated places, was forcibly seized and imprisoned for several months, and then, without trial, released. John Baker and his associates, named in the other Resolves, suffered by imprisonment and otherwise, for acting under a law of this State, incorporating the town of Madawaska in 1831. The State of Maine has acknowledged, by these and other Resolves, its sense of obligation to remunerate, in the first instance these sufferers in its cause, and to satisfy, as far as it is able, their claims upon its justice.

But the wrongs by which they suffered, were committed by a foreign power, with whom we are now at peace. The State of Maine has no power to make war or authorise reprisals. She can only look to the General Government to assume the payment, as

an act of justice to a member of the Union, under the provisions of the Constitution, and to demand redress and remuneration from the authors of the wrong, in the name of the United States. A minute recapitulation of the facts, upon which these Resolves are founded is deemed entirely unnecessary and superfluous, as they have heretofore been communicated, and are well known to the Executive and to Congress.

Maine has suffered too many repetitions of similar attempts to prevent her from enjoying her rightful possessions and enforcing her just claims, to feel indifferent on the subject; and we look with confidence to the General Government for protection and support. The amount of money although considerable, is of comparatively small importance, when contrasted with the principles involved, and the effect which must result from an immediate and ready assumption of the liability on the part of the United States. Such an act would be highly gratifying to the people of this State, as evidence that their just claims and rights are fully recognised by the United States, and that the strong arm of the Union will be stretched out for their protection, in every lawful effort, to maintain and enforce their claims, which they know and feel to be just and unimpeachable, and which they are determined to maintain.

I trust I shall be pardoned for earnestly urging immediate action on this subject.

I had the honor to inclose to you, under date of the 28th of March last, a copy of my message to the Legislature, and of the Resolves of the Legislature of Maine, in relation to the North Eastern Boundary, which I have no doubt have received and will receive all the attention the importance of the subjects therein discussed and acted on demands. You will perceive that in accordance with your wishes, I communicated the proposition, in relation to a conventional line of boundary, with the letter of Mr Forsyth, addressed to the Executive of Maine. The views and wishes and determination of the Executive, and Legislature, and I think I may safely add, of the people of Maine, are fully and distinctly set forth in the documents referred to, communicated to you heretofore by me. The proposition was distinct and definite, and the answer is equally so, and I consider that it may be regarded as the fixed determination of Maine, to consent to no proposition on our part to vary the treaty line, but to stand by that line, as a definite, a practicable and a fair one, until its impracticability is demonstrated. It is needless for me to recapitulate the reasons upon which this determination is founded. I refer you to the documents before alluded to for my own views on this topic, sanctioned fully by the Legislature. The duty devolving upon me by your request, I have endeavored to discharge, in a spirit of profound respect for the constituted officers of the Gener-

al Government, and with a single eye to the interests and honor of the United States and of the State of Maine.

The attitude assumed by Maine, in relation to the survey of the line of the treaty of 1783, has doubtless attracted your attention. I feel it due to the State to say to you, frankly and unequivocally, that this position was taken deliberately and with a full consideration of all the circumstances of the case. But it was assumed in no spirit of defiance or resistance, and with no design to embarrass the action of the General Government. Maine feels no desire to act alone or independently on this question. She knows and feels that it is a national question, and that it is the right and duty of the General Government to move forward in effecting the object proposed. I feel fully warranted in saying that Maine does not intend, by this expression of her determination to run the line in a certain contingency, to waive, in the least degree, her well founded claim upon the General Government to run, mark and establish it. On the contrary, she will most reluctantly yield the hope she now so strongly feels, that it is the intention of that government to relieve her from the necessity of throwing herself upon her own resources, to assert and defend her most unquestionable rights. The wish of this State is, that the first act should be to run the line of the treaty of 1783, to ascertain the facts in relation to the topography of the country, and the exact spot where the North West Angle of Nova Scotia may be found, according to our construction of the treaty language, and to place suitable monuments along the whole line. Such a survey would not settle or determine any rights, but it would express and declare our views and intentions. Such a survey is not a warlike or offensive movement, and cannot justly give offence to the other party in the controversy.

It is the unquestionable right of litigants in a court of justice to make explorations of land in dispute, and if either party declines a joint survey, it may be made *ex parte*. And surely the United States have never so far yielded the actual possession to Great Britain, as to preclude the right, on our part, to ascertain for ourselves the absolute facts, and to mark out the limits of our claim and our alleged rights.

This act Maine asks, and asks earnestly, the General Government to perform without delay.

Such an assumption of the controversy, on the part of the United States, would be to Maine an assurance that her rights were duly regarded and would be steadily and perseveringly maintained. We want the name and the authority of the United States, and there can be no doubt, that an act emanating from that source, would be regarded, by those interested on both sides, as of more importance than any act of an individual State. So far then, from any indifference on the part of Maine, as to the action of the Gen-

eral Government, or any desire to be driven to assume the performance of the duty alluded to, she looks with intense anxiety and confident hope to be relieved from this position. She believes it is alike due to the honor of the United States, and the rights of Maine, that the General Government should go forward in the work, and that there is less to apprehend, in the result, from such a course, than any other. But Maine feels that the time for decisive action has come, that she cannot be satisfied to have the claim to absolute and exclusive jurisdiction, of a large part of her territory, longer tolerated and acquiesced in. She knows that it rightfully belongs to her jurisdiction, that it is hers by a clear, perfect and honest title, as clear, as perfect and as rightful as her title to any portion of the State, and she cannot consent to have this title impaired or weakened by bold encroachments and unscrupulous demands. She cannot consent that a title transmitted by the Fathers of the Revolution, shall be destroyed or defeated, by acquiescence in the adverse occupation of a foreign State, and that what was once fairly yielded shall be reclaimed, in utter defiance of a solemn deed of cession. I am confident I am not mistaken in stating, that the Legislature of Maine considered the question as fairly and plainly before the National Government, and that if the present session of Congress should close with a denial, or postponement of the proposed survey, and no commission should be created by the Executive, as contemplated in the Resolution referred to, we should have a right, and be bound, to regard such delay or refusal as evidence of an indisposition on the part of the General Government to accede to our expressed views and wishes, and a denial of justice; and that Maine, in that event, owed it to herself to cause the survey to be made under her own authority. The duty of the Executive of Maine is plainly pointed out, and made imperative and absolute by the Resolves of the Legislature, and I certainly cannot hesitate, so far as I have the means and power, to execute their declared will. The people of Maine, Sir, are not desirous of conflict or war. Both in their habits and their principles they love and wish for peace and quiet within their borders. They are not ambitious to win laurels or to acquire military glory, by waging war with their neighbors, and least of all are they desirous of a BORDER warfare, which may be the means of sacrificing human life, and engendering ill will and bad passions, without bringing the controversy to a conclusion. They are scattered over our thousand hills, engaged in their quiet and peaceful labors, and it is the first wish of their hearts, to live peaceably with all men and all nations. They have no anxiety to extend our limits, or to gain territory by conquest. But there is a firm and determined spirit in this people, which cannot brook insult, and will not submit to intentional injury, "They know their rights and knowing dare maintain them," with a calm deter-

mination and deliberate purpose, and they appeal with unshrinking confidence to their Sister States, and to the Government which binds them together, for effective support in this their purpose. The crisis, as we believe, demands firm and decided language, and the expression of a determined design. Maine has never refused to acquiesce in any fair and honorable mode of fixing the line *according to the treaty of* 1783. I have no doubt (but upon this point I speak according to my individual belief) that the mode proposed to Great Britain, of establishing the treaty line upon the face of the earth, by a commission composed of impartial and scientific men, to be selected by a friendly power, would be satisfactory and acquiesced in by this State, but that we should neither ask nor agree that any preliminary points should be yielded by either party.

We should only ask that the treaty should be placed in their hands, with directions to ascertain, and run, and fix the line according to its plain language and obvious meaning. Maine can never consent, as I apprehend, to yield the main points of the case, and then refer it, to enable the judges to divide the subject matter of the controversy.

We feel that we now stand on the high vantage ground of truth and justice, and that it cannot be that any nation, professing to act on the principles of right and equity, can stand up before the civilized world, and contest, with unyielding pertinacity, our claim. We have too much respect for the nation from which we descended, to believe that she will sully her reputation by such persevering resistance. I am conscious that the language and style of this communication are unusual, and probably undiplomatic; that there is more of the fervor of feeling, and the plain language of direct appeal, than is usual in such papers. But it is a subject of such vast importance to the State, whose interests have been, in part, entrusted to me, and whose organ I am, that I cannot speak in measured terms or indefinite language. On this subject we have no ulterior views and no concealed objects. Our plans and our policy are open and exposed to the view of all men. Maine has nothing in either to conceal or to disguise. She plainly and distinctly asks for a specific and definite action. In performing what I conceived to be my duty, I have been actuated by entire respect towards the General Government, and by the single desire to explain and enforce, as well as I was able, our wishes and our rights. I can only add, that we trust the General Government will assume the performance of the act specified in the Resolution, and relieve Maine from the necessity of independent action.

With great respect,
I have the honor to be,
Your most obedient servant,

EDWARD KENT.

No. 9.

*To His Excellency EDWARD KENT,*
*Governor of Maine.*

DEPARTMENT OF STATE, WASHINGTON, 8TH MAY, 1838.

SIR:—I have the honor to acknowledge the receipt, on the 22d ultimo, of the communication addressed to this Department by your Excellency on the 28th of March last, transmitting a printed copy of your Message of the 14th of the same month to the Legislature of Maine, together with certain Resolves passed by that body, in relation to the Northeastern Boundary of the State. Although the answer thus given to the application made to you by direction of the President, under date of the 1st of March last to ascertain the sense of the State of Maine in regard to a conventional line of boundary, may be regarded as conclusive, I still deem it proper, with reference to your Excellency's Message, to mark a misconception which appears to have existed on your part, when communicating to the Legislature the letter and documents received from this Department. This is done with the greater freedom since the frank and liberal manner in which your Excellency invited the attention of that body to the subject, is highly appreciated by the President. The question therein presented for consideration, was not as your Excellency supposed, whether the State of Maine should "take the lead in abandoning the treaty, and volunteer propositions for a conventional line;" but, simply, whether the Government of Maine would consent that the General Government should entertain a direct negotiation with the British Government for a conventional line of boundary on the northeastern frontier of the United States. Had that consent been given, it would have been reasonable to expect the proposition of a line from Great Britain, as it was that Power which particularly desired the resort to that mode of settling the controversy. It was, also, the intention of the President so to arrange the negotiation that the approbation of Maine to the boundary line agreed upon should have been secured. It was with this view, that, in the application to the State of Maine for its assent to a negotiation for a conventional line, express reference was made to such conditions as she might think proper to prescribe. To all such as were, in the opinion of the President required by a proper regard for the security of Maine, and consistent with the Constitution, he would have yielded a ready assent. Of that character was he disposed to regard a condition that, in a negotiation for the final establishment of a new line, with power on the part of the negotiators to stipulate for the cession or exchange of territory, as the interests and convenience of the parties might be found to require,—the State of Maine

should be represented by Commissioners of her own selection, and that their previous assent should be requisite to make any treaty containing such stipulation, binding upon her. These suggestions are not now made as matter of complaint at the decision which the State of Maine has come to, on a matter in which she was at perfect liberty to pursue the course she has adopted, but in justice to the views of the President in making the application.

I am instructed to announce to your Excellency, that, by direction of the President, upon due consideration of the result of the late application of the General Government to the State of Maine on the subject of the North Eastern Boundary, and in accordance with the expressed wishes of her Legislature, I have informed Mr. Fox of the willingness of this Government to enter into an arrangement with that of Great Britain for the establishment of a Joint Commission of Survey and Exploration upon the basis of the original American proposition and the modifications offered by Her Majesty's Government; and to apprize you that Mr Fox, being at present unprovided with full powers for negotiating the proposed convention, has transmitted my communication to his Government, in order that such fresh instructions may be furnished to him, or such other steps taken as may be deemed expedient on its part.

I have the honor to be,
with great respect,
Your Excellency's ob't servant.
JOHN FORSYTH.

---

## NO. 10.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT,
June 9, 1838.

SIR:—I have the honor to acknowledge the receipt of your communication of the 8th of May last in relation to the interesting subject of our Northeastern Boundary.

I feel great gratification that the manner in which I communicated the contents of your former note to the Legislature was acceptable to the President, and I regret that I did, in the view of the President, misapprehend, in any particular, the import and bearing of the propositions in your communication.

As no specific proposition was made to Maine, and no negotiation for any definite and expressed line of boundary was pending between the United States Government and the Government of Great Britain, and as the negotiation seemed to

be at a stand, it appeared to me, if Maine then agreed to give an unlimited and general power to the President to fix any conventional boundary that might be agreed upon, that she would "take the lead in abandoning the treaty and volunteer propositions for a conventional line." But I do not think it necessary or advisable to pursue this topic at more length, when other points of much greater importance are claiming attention, and when I feel full assurance, if I have mistaken the import of the propositions, or used too strong language in expressing my views of them, that my errors have been productive of no evil effects, as all the documents and facts upon which my opinion was founded were laid before the Legislature and the American people.

The decision of Maine, I am confident, was based, not so much upon objections to the time and mode, as upon an insuperable repugnance to departing from the plain language of the treaty.

The information contained in your communication that, "by direction of the President, upon due consideration of the result of the late application of the General Government to the State of Maine, on the subject of the Northeastern Boundary, and in accordance with the expressed wishes of her Legislature, I have informed Mr. Fox of the willingness of this Government to enter into an arrangement with that of Great Britain for the establishment of a joint commission of survey and exploration upon the basis of the original American proposition and the modifications offered by Her Majesty's Government," is highly important and interesting and demands from me something more than a passing notice.

If, by the foregoing statement, I am to understand that the original proposition and the modifications of Her Majesty's Government are to be consolidated into one, and be made the absolute terms of a convention and an agreement between the two nations, without other discussion than such as is necessary to ascertain what those modifications in fact are, as they have been from time to time developed, I cannot but feel some surprise that the President should find in the recorded action of the Legislature of Maine, authority to justify the belief that the recent proposition for such a joint commission of survey and exploration is in accordance with the expressed wishes of the Legislature of Maine. I confess that I have never so understood or so construed the action of that body. I have never for a moment supposed that the Legislature of Maine

intended to express any such will, or to ask for any such propositions to be made.

If the meaning and intention of the General Government, as expressed in the proposition to Her Majesty's Government, is simply that the negotiation shall be opened upon that basis, and the terms of the convention shall be discussed and determined without any reference to the previous terms and modifications, except as evidence of the wishes and propositions of each party, heretofore made, I still feel it to be a duty which I owe to the State and to the President to express unreservedly and frankly my views of the wishes and intentions of the Legislature and the people of Maine, upon this important topic.

I cannot believe that in either aspect of the case the President will deem it intrusive or indecorous for me to give, as well as I am able, these views.

If any apology is needed, I trust it will be found in the importance of the subject to Maine, and in the paramount feeling which urges me to neglect no opportunity to place the subject before the General Government in what I deem its true light.

The President, I cannot doubt, will be anxious to ascertain the opinions and wishes of Maine before entering into definite arrangements, and will give to them the consideration and weight to which they are justly entitled.

If the Legislature had been in session, I should of course have left it to that department to express its own views; but as the two branches composing the Legislature have separated, the duty appears to devolve upon the Executive to speak in behalf of the whole State.

The *original* American proposition, as I understand it, is contained in the note of Mr Livingston to Mr Vaughan, of the 30th of April, 1833, in these words: "All the disadvantages of these modes of settlement, heretofore adopted, might, as it appears to the American Government, be avoided by appointing a new commission, consisting of an equal number of commissioners, with an umpire selected by some friendly Sovereign from among the most skillful men in Europe, to decide on all points in which they disagree, or by a commission entirely composed of such men, so selected, to be attended in the survey and view of the country, by agents appointed by the parties.

"Impartiality, local knowledge, and high professional skill, would thus be employed, which, though heretofore separately called into the service, have never before been combined for

the solution of the question." This is the proposition to which I referred in my message to the Legislature, as being, in my view, "equitable and fair and just to all parties, and full of promise of adjustment upon proceedings satisfactory to us," and also in my letter to the President of the 28th of April last.

Accompanying this proposition is the suggestion in relation to a mode of survey, provided the natural object referred to is not found in the course specified in the treaty, ending with the allegation, that, "if after more accurate survey shall have been made, it should be found that the north course from the head of the St. Croix should not reach the highlands which answer the description of those designated in the Treaty of 1783, then a direct line from the head of the St Croix, *whatever may be its direction*, to such highlands, ought to be adopted, and the line would still be conformable to the treaty."

The first departure from the language of this communication from Mr Livingston, was by himself, in his note of the 28th of May, 1833, to Mr Vaughan, in which he modifies the suggestion before made of running the line to the highlands, *whatever* may be its direction, by admitting that the American Government makes no pretension further east than a due north line; but, if the highlands of the Treaty are not found in such line, then the search to be confined to the *westward*.

Whatever decision Maine might make upon the original proposition, unaccompanied by any suggestion, or the subsequent modification of the suggestion, it is difficult to perceive any reason, whether we regard it as a matter of strict law or liberal equity, why such a mode should be adopted, or why such a restriction should be imposed, or such directions given, that one party should *certainly* gain, and the other certainly lose by departing from the treaty line.

If this modification of Mr Livingston's first suggestion is to be regarded as belonging in any shape to the original American proposition referred to in your last note to me, I am confident that Maine will the more earnestly and inflexibly object to the proposition without reference to the modifications offered by the Government of Great Britain.

I have felt it to be my duty to say thus much in relation to "the original American proposition," to guard against any misconception on that topic.

But the General Government has expressed to that of Great Britain a willingness to establish a joint commission of survey

and exploration, upon the basis of the original American proposition and the *modifications* offered by Her Majesty's Government.

If I rightly understand, the American proposition relates to the creation of a commission, and the modifications have relation to the mode of creation, and the powers and duties to be prescribed. I confess I am at a loss to understand fully what modifications are now insisted upon and intended to be recognised by the American Government as forming a basis for the arrangement.

Mr Fox, in his note of the first of May last, confines them to those suggested in his note of the 10th of January last; but as that note expresses the reluctant assent of Her Majesty's Government to such commission, "if the principle upon which it is to be formed, and the manner in which it is to proceed, can be satisfactorily settled," it seems to leave room for the assertion of all prior claims, and the demand for all prior modifications.

It is needless for me to recapitulate them, made, as they have been, at different times and in different connections, but all, as it seems to me, tending to the obliteration of the treaty line, and evincing an anxious desire to avoid any negotiation or arrangement having that line for its basis.

It can be hardly necessary for me to say, after the explicit rejection, by the United States, of the modifications heretofore offered, that the State of Maine, in my opinion, will never consent to yield the points, that the treaty line is impracticable, or that the northwest angle of Nova Scotia cannot be found, and does not exist, or that the Restigouche and Saint John's are not Atlantic Rivers, and that the Highlands must be looked for south of those rivers—or that the advice of the Umpire and his suggestions are to be taken as decisions upon preliminary points, although both parties agreed that upon the main point referred he has given no decision.

It would certainly be very remarkable if Maine should assent to such modifications, after the very clear reasons of rejection given by the Secretary of State of the United States in his answers thereto, as they have been presented.

Another *modification* of more recent date, but to my mind equally if not more objectionable than any former one, is that again suggested in Mr Fox's note of the tenth of January last, that, "in order to avoid all fruitless disputes, as to the character of such Highlands, the Commissioners should be instruct-

ed to look for Highlands which both parties might acknowledge as fulfilling the conditions of the treaty." It certainly, at first view, strikes one as somewhat singular, that, in propounding the terms for a mutual submission for determining points of difference, one party should stipulate that the Commission should be limited to decide only upon the contingency that both parties should acknowledge the decision as correct, or, as in this case, fix upon the Highlands the location of which is in dispute, provided both parties should first acknowledge them as fulfilling the conditions of the treaty.

A plain and unsophisticated man would naturally ask what beneficial result could be anticipated from such a submission, and what reason could be given for constituting such a mere ministerial and not judicial board.

A close examination of the map and the surface of the country will, however, I think, at once show the dangerous and alarming nature of this apparently mere suicidal modification. Both parties would probably agree that the Highlands on the west line of Maine, as far as some point between the 46th° and 47th° of latitude "fulfilled the conditions of the treaty," dividing the waters of the Saint Lawrence from those of the Kennebec and Penobscot. But here the agreement would be at an end.

If by the terms of the Convention the Highlands were to be those which both parties should acknowledge, and the dividing line should be run from the monument at the head of the Saint Croix to the point of agreement, a glance at the map will show that such a line would probably be nearly due *west*, instead of north, and deprive Maine of more territory than any other claim yet made. Into such a league, with great confidence, I say, Maine can never come.

In relation to the proposed departure from the treaty line, in search of Highlands west thereof, the Legislature of Maine, in 1837, accepted a report of a joint committee in which this subject, in connection with other topics, is fully discussed, and the proposition treated as one utterly unjust and inadmissible.

In the Message of the present Governor to the Legislature, accompanying the documents transmitted by the Secretary of State, a copy of which I had the honor to transmit, under date of the 28th of March last, and which is referred to in your last note, after speaking of the original American proposition, unmodified and uncontrolled, as equitable and fair, the following opinion of the modifications, as understood, was

expressed: "But although it was entertained, the answer to it clogged the proposition with so many conditions, and so limited the powers of the commissioners, and required the concession on our part of the all important fact that the Saint John's and Restigouche are not Atlantic Rivers—that the original plan was at once deprived of all vitality or power, or use, and in fact the reference would have been merely an agreement to abide by the decision, provided both parties should be satisfied and assent to it."

The Committee of the two branches of the Legislature to whom this Message and other documents were referred, made a report thereon, in which, speaking of the proposed negotiation for a conventional line, and also of the commission of survey as modified, the committee say: "To such a conventional line, or to such a commission of survey, we believe the people of this State are not prepared to assent. They ask, and they think they have a right to demand, that after a lapse of more than half a century, the eastern line of our State, in its whole extent, shall be run and established according to the treaty of 1783.

"The Governor's Message communicating Mr Forsyth's letter contains, as your committee believe, sound views and doctrines, and will be responded to by every citizen of Maine."

This report, it is true, was not accepted in the Senate, although it was signed by each individual member of the committee, and was accepted in the popular branch without division. I hazard little, however, in saying that no objection was made from any quarter to this part of the report. And it will be seen that by the last resolve which passed both branches, the Governor is requested to send a copy of the before named Message to the President and Heads of Departments. I mention this circumstance as evidence that the Legislature concurred with the Executive in his expressions of disapprobation of the proposition as modified.

I make no mention in this connection of the expression of my views upon this topic in the communication which I had the honor to make to the President, under the date of the 28th of April, as that letter was dated the day after the communication by you to Mr Fox, and of course made no part of the evidence upon which that opinion was formed, "that the proposition was in accordance with the expressed wishes of the Legislature of Maine."

I will only say that I have seen no reason to change the views therein expressed.

I believe that the survey intended by the Legislature, in the resolve providing for a survey of the treaty line by the authority of this State, upon certain contingencies, is such a survey as is provided in the bill now before Congress, or as contemplated in the original American proposition, without modifications or restrictions, as I have before stated.

I understand the Legislature to contemplate three different modes of Survey, either of which would come within the meaning of the resolve—one as provided in the pending bill—one by a joint commission with Maine—and one by a joint commission with Great Britain.

If the latter mode is adopted, Maine certainly asks that it shall not be merely a commission without powers to determine any thing, and especially that the concession of vital preliminary points shall not precede the establishment of such a commission.

A commission for a joint exploration and examination, without power of determination upon any point, and without either party yielding any points, or granting any positions, with directions to examine and run any lines or courses which either party might request, and to report jointly or severally the result of their labors, would, in my apprehension, be far less objectionable, than the original American proposition with the modifications of the British Government incorporated or engrafted thereon.

The survey first named would be nearly similar to the last in the extent of power and probability of determining the controversy, and be free from the very objectionable conditions and concessions demanded by the modifications referred to.

But Maine would feel a strong, if not insuperable objection to a mere reconnoisance and examination, on account of the delay and embarrassment and injury to her interests, which would thereby be occasioned.

The valuable timber on the disputed territory is daily diminishing; and from authentic sources I learn that a vast amount is annually, without license, cut and carried away, and no account taken.

Delay, which to one party seems desirable, is objectionable to us.

After fifty-five years of procrastination, it would seem reasonable to ask that whatever movement is made, should

have a direct and unavoidable tendency towards a final settlement.

Whilst, therefore, Maine is anxious for a joint or separate survey, which shall result in some definite and positive advancement in the settlement, upon equal and equitable terms, upon the treaty basis, she is not willing to join in proceedings which, when ended, will leave the parties on the same spot from which they started, and she most solemnly protests against the preliminary conditions and vital modifications of Her Majesty's Government.

I have thus, sir, given you my views of the wishes and expectations of Maine, in frank and undisguised language, and with an anxious desire to put you in possession of my understanding of the feelings and intentions of the Legislature and people.

I speak confidently, but I believe safely, in thus expressing myself.

I will only add that the passage of the law now before Congress, and the assumption of the duty therein specified by the Government of the United States, would be highly satisfactory to the people of Maine.

I have the honor to be, with great respect, your obedient servant.

(Signed) EDWARD KENT.

Hon. JOHN FORSYTH,
Secretary of State, U. S.

---

No. 11.

DEPARTMENT OF STATE,
WASHINGTON, 26th June, 1838.

His Excellency, EDWARD KENT,
Governor of the State of Maine.

SIR:—I have the honor to acknowledge the receipt of your Excellency's communication of the 9th instant. As it is obvious from its context that, at the date of it, your Excellency had not been made acquainted with a letter on the same subject which I addressed on the 26th of last month to the Honorable Reuel Williams, one of the Senators in Congress from the State of Maine, I transmit to your Excellency the enclosed copy of that letter.

I am, Sir, with great respect, your Excellency's obedient serv't.

JOHN FORSYTH.

No. 12.

DEPARTMENT OF STATE,
WASHINGTON, 26th May, 1838.

Hon. REUEL WILLIAMS,
U. S. Senate.

SIR:—I have had the honor to receive your letter of the 24th inst. and to state in reply that from the negotiation to which the British Government has been invited, the President anticipates the establishment of a joint commission, with an Umpire whose power, will be restricted to the purpose of explanation and survey only, without authority finally to decide upon the rights of the parties as contemplated in the original American proposition. The suggestions that have been made on either side with respect to the mode of constituting that commission, the principles upon which it is to act, and the instructions to be given to it, are all to be discussed and decided upon, as justice between the parties and their respective rights shall be deemed to require.

The object of the President in offering to make such an arrangement, as you will see in my note to Mr. Fox of the 27th of April last, is to test the correctness of the opinion of the State of Maine that the line described in the Treaty of 1783, can be found and traced whenever the Governments of the United States and Great Britain, shall proceed to make the requisite investigation with a predisposition to effect the desired object.

I have the honor to be, Sir, your obedient servant.

JOHN FORSYTH.

---

No. 13.

IN COUNCIL, April 25, 1838.

Whereas the Governor has been requested by the Legislature to demand of the General Government repayment of certain sums paid by this State, to Ebenezer S. Greeley, and John Baker and others, for their services and sufferings in connection with the Boundary question between the United States and Maine on the one part, and Great Britain and New Brunswick on the other; and whereas the State of Maine feels a deep interest in whatever relates to said question, and particularly the action of Congress and the Executive of the United States, at the present time, upon this vitally important subject, and is anxious that every effort should be made to induce the General Government to assume the position which is required to maintain the interests and rights of this State and the honor of the United States—therefore

Ordered, That a Special Messenger and Agent be appointed to bear the aforesaid request for remuneration and such other dispatches, as may be delivered him by the Governor, to Washington; and that said Agent be further authorized to remain at Washington, under the direction of the Governor, to use his best endeavors, in conjunction with our Senators and Representatives, to obtain the passage of the Bill, now before Congress, relative to running the Boundary Line; to enforce upon the General Government the necessity of immediately taking measures to erect Fortifications upon our Frontier and Seaboard, and to establish Military Posts in the interior of our State, and for the location and construction of a Military Road leading to Madawaska; and generally to execute such duties as may be specified in instructions from the Governor in relation to the pending questions.

And Charles S. Daveis, Esq., of Portland, in the County of Cumberland, was by the Governor, with the advice and consent of the Council, appointed Special Messenger and Agent to Washington for the purposes specified in the foregoing order.

---

No. 14.

## STATE OF MAINE.

Executive Department,
Augusta, April 30, 1838.

To Charles S. Daveis, Esq.

Sir:—You having been, by the Governor with advice of Council, appointed Special Agent to co-operate with the Delegation of this State in Congress, in forwarding the interest of Maine in relation to certain subjects connected with the question relative to the North Eastern Boundary, will, if you accept the appointment, proceed to Washington, with as much dispatch as your convenience will admit, and enter upon the discharge of your duties. The mode and manner of operation is left to your own judgment and discretion. The first and leading object of your mission is to enforce the necessity and expediency of some effective measures, on the part of the General Government, in relation to running the line, in the manner, and at the time, contemplated and expressed in the Bill now before Congress. And you are authorized to use strong and decided language in relation to the determination of Maine, to move forward upon her own responsibility, if the United States refuse or neglect to provide for, and execute, the proposed Exploration and Survey. In connexion with, and as auxilliary to the same subject matter, you will call the attention of the proper authorities to the Resolves;

ry Question between the United States and Maine on the one part, and Great Britain and New Brunswick on the other, declared the deep interest which the State felt in whatever related to that question, and particularly in regard to the action of Congress and the Executive of the United States, at the existing period, upon this vitally important subject; and expressed its anxiety, especially, that every effort should be made to induce the General Government to assume the position, which was required to maintain the rights and interest of this State, and the honor of the United States.

The duties marked out in my commission were, to bear to the City of Washington the application from yourself to the General Government for repayment of certain sums of money paid to Ebenezer S. Greeley, John Baker, and others, by virtue of certain Resolves of the Legislature, at its late session, in their favor, and there to remain under your direction; to use my best endeavors, in conjunction with our Senators and Representatives, to obtain the passage of the Bill, then before Congress, relative to running the North Eastern Boundary line of this State; to enforce upon the General Government the necessity of taking immediate measures to erect fortifications upon the frontier and the seaboard, and to establish military posts in the interior, and a military road to Madawaska, and, finally, to fulfil your instructions in regard to subjects before Congress, in which our State was interested.

In those instructions, in which you repeated and enforced the leading objects of the mission, you thought proper to leave room for the office of judgment and discretion, as occasion should exist, upon advice with the delegation from the State in Congress.

In obedience to these directions, I proceeded to Washington, as soon as it was in my power. I delivered the letter addressed by you to the President of the United States, relating to the purposes of my appointment, on the tenth of May, and entered immediately on its duties and services.

I lost no time in soliciting the allowance of the claims, made by the State for the payment to the several persons mentioned in the Resolves, on account of injuries and sufferings experienced by them, in consequence of certain civil duties undertaken to be performed, or submission to foreign rule refused, by them, respectively, within the rightful precincts of the State. I had several interviews with the Secretary of State for this purpose.

It was not considered by the Secretary, in reply to this

application, that the President had the power to make any such allowances, properly, without the actual authority of Congress, and specific appropriations for that purpose. The example of an allowance of a similar kind, made at an earlier period, on account of Baker, seemed to be the point for me to recur to, in support of the authority exercised, in that instance, under the provision made by Congress, for incidental purposes pertaining to foreign relations, understood to be at Executive discretion. It was deemed fit to advert, likewise, to the demand, which the President had directed to be made upon Great Britain for the liberation of Greely from his imprisonment in New Brunswick, together with an indemnity for the wrong, conformable to the course adopted in the same case of Baker. This reclamation was viewed as at once recognizing the cause of the complaint, and seeming to assume the subject of it, in its public and national character.

These reasons for the allowance of those payments, although not disregarded, were not sufficient to prevail with the Executive department in the first instance. But the application was, after some short postponement to afford opportunity for examination, referred to the consideration of Congress: And it was made the subject of a special communication to both branches in the ordinary manner, and submitted to their decision, with an allusion, simply, to the circumstances connected with it, contained in your letter, which was transmitted at the same time.

Perhaps it may be proper to remark, further, in relation to the course pursued by the Executive upon the subject of this request, that a similar application had been made on behalf of the State by your immediate predecessor in office, to the Government of the United States for a reimbursement of not much amount, without success. It was referred, in the same manner, to the consideration of a former Congress, where it was committed in the House of Representatives, to the Committee of Foreign Relations; and upon an unfavorable report in regard to its merits, rejected. Against this recent precedent, it may be noticed, an actual prior allowance of expenditures of a similar nature, by the authority of Congress itself, was not recognized as of any avail, if it was taken into view by the Committee. The present claim was consequently objected to, when called up in the House of Representatives, on a motion from our delegation, and was opposed by the Chairman of the Committee upon the same grounds, which had been urged with effect to defeat the former. It was therefore laid upon the table, and there suffered to rest until the close of the session. The man-

ner, in which it was then revived, and fortunately received the eventual sanction of Congress, with that of the Executive also, remains to be related in its place.

Before dismissing this topic, however, for the present, it may be proper likewise to observe, that the immediate claim not being of great magnitude, nor the amount regarded as by any means of the principal moment, it was not thought expedient, in the united view entertained of the subject by the delegation, to press it in any manner to interfere with the success of objects of more special and paramount importance. As a reason at the same time for not losing sight of this point, besides the positive charge I had received upon it, it must be sufficiently apparent, that the real interest of the State was less in obtaining the repayment of any mere sum of money, to which it was entitled, than in gaining the recognition of the rightful ground of its claim for protection and support against external aggression, which was presented in this form, and which would necessarily be inferred by its adoption. There can be no need to observe, that so just and important a view of the subject in all its proper bearings, could not, at any time, escape attentive, and intelligent, consideration.

By the terms of your instructions it was made the first and leading object of my mission to urge the necessity, as well as expediency, of some effective measures on the part of the General Government, in relation to running the line in the manner proposed by the Bill before Congress.

In regard to this Bill, which formed so prominent a point in my commission and instructions, I have to observe, at the outset, that a new aspect was placed upon the state of the question, pending before Congress in that shape, soon after my arrival This was in consequence of a step which, it proved, had just been taken by the Executive, in virtue of his constitutional power, to open another negotiation upon the subject. It appeared by information, verbal to me in the first place, and understood from the Secretary of State to have been lately conveyed to yourself, and which was soon after communicated to Congress, that a correspondence had recently been commenced between the Secretary of State and the British Minister at Washington, with a view to forming a provisional arrangement, in reference to a mutual survey for the future establishment of the boundary line. This step, it may be presumed, was taken in consequence of the Resolutions of the State in answer to the course pursued by, and through, the Central Government,

to obtain the sense of Maine upon the precise question, whether its consent would be accorded to the establishment of a conventional line. Comparing the dates of this correspondence between Mr. Forsyth and Mr. Fox with the proceedings in Council, it appears that they were almost simultaneous. I make reference to this circumstance, more particularly, as the effect of it undoubtedly was to anticipate the immediate and most urgent object of my appointment and instructions, so far, that is to say, as related to the prospect of the measure in contemplation before Congress at that time, so strongly recommended by yourself also, in your letters to the delegation and to the President.

It cannot be necessary, therefore, to remark, that this new state of negotiation was not known in Maine at the period of my appointment and proceeding to Washington. Nor was it distinctly understood by the delegation of the State, generally, until the communication, which was made to Congress, of this correspondence by the President, together with your letter to himself, on the twenty-third of May.

The circumstances, character and effect of this correspondence became at once, as might be supposed, the subject of very considerable interest and concern. Solicitude was naturally excited to ascertain as nearly as possible, the tendency and influence of its language in settling the terms of the proposed arrangement; and what effect, moreover, the information would be likely to have upon the fate of the Bill itself before Congress.

The arrangement to be entered into with Great Britain, for the establishment of a joint commission of survey and exploration, was expressed to be upon the basis of the original American proposition and the modifications offered by the British Government.

In avowing the anxiety, that was felt by those who were concerned on behalf of Maine, at the broad and alarming extent of these apparently uncertain and indefinite expressions, it may be allowable to advert, with freedom and plainness, under your permission, to the immediate grounds of apprehension.

It may be acknowledged that this was occasioned, principally, by the extraordinary, not to say unwarrantable, looseness of the language employed by Mr Livingston, in the mode of conveying what was taken to be intended, as the original American proposition.

As that p[illegible]sition has been uniformly understood and in-

terpreted, in immediate connection with the idea advanced by Mr Livingston for the solution of the question, it deserted the true North line of the Treaty of 1783, and abandoned the Northwest angle of Nova Scotia, in pursuit of some chimerical object, assumed as a natural monument, which was nowhere defined to exist, nor is capable of being found to this day, with any more certainty, in any other direction, than as laid down in the plain language of that Treaty. The renewal of it in those words, seemed the more remarkable, also, as the British Government did not concur in the view of it presented by Mr Livingston, nor recognise the correctness of the principle assumed by him, and which was so earnestly pressed in its practical application to the point in controversy, as possessing the character either of scientific accuracy or historical authenticity, which he attached to it; but they pronounced it at once to be a departure from the Treaty line, and to amount to the establishment of a conventional one; and considered it as coming, therefore, within the scope of the constitutional difficulty raised on the part of Maine. It appeared the more singular, again, inasmuch as the present Secretary of State, who, it must be owned, took up the subject in entering upon the duties of his department, under disadvantageous circumstances, had certainly seemed to have done much, in the course of the subsequent correspondence conducted by him, to rectify the palpable error of Mr Livingston, and retrieve the direction of the Treaty line from the strange obliquity into which it had been unadvisedly betrayed, and in which it had become so hopelessly involved, by this unfounded and most unfortunate supposition. It is perfectly plain by the treaty definition, that no other specific natural or visible object was in view, except the North Pole, or the North Star; apart, that is to say, from that general feature in the formation of the earth, by which water is turned away and made to flow in different directions. It was by the combination of these two single rules, given by the treaty description, to wit, this distinct geographical division of waters and the due North direction, only, that we could expect to arrive at the exact mathematical point, or angle designated with so much precision in the treaty of 1783; and which coincides, so literally, with the limit established in the same manner by Great Britain, for the boundary of her contiguous Provinces. It was most manifest, that the object proposed by the treaty, whether more or less conspicuous on the face of the Earth, would never be reached in any other direction. It was thought the more

surprising, therefore, after all that had thus taken place, that any further countenance should be lent to the revival of Mr Livingston's original proposition, so much in the gross, as the basis of a new negotiation, and that, too, not merely as he had enunciated it, without qualification, (except as, afterwards, to the East) but as it was complicated still further by the additional conditions and stipulations, which the policy of the British Government had constantly sought to attach to it, and which they had insisted upon, unsuccessfully, through a long series of diplomatic schemes and discussions.

It is undoubtedly true, that the simple original scheme of Mr Livingston for instituting an impartial scientific commission, or tribunal, for the determination of this protracted controversy, is entirely capable of being discriminated, as it has been considered by yourself, both in your communications to the Legislature, and in your correspondence with the Secretary of State, and of being detached from the gratuitous and speculative expedient suggested by Mr Livingston for the practical solution of the question. But the difficulty existing in the late official correspondence was, that the principle assumed at first seemed to be necessarily involved again in those subsequent modifications. It formed, in fact, the very basis of them. They were continually mixed with every consideration of the proposal by the British Government. So essentially and inseparably were they blended, in truth, that those modifications could not even be comprehended without recurrence to this supposed principle of exploration and survey. That suggestion went, as it was conducted, the whole length of discarding the due North line; and all the shapes and changes of it, in the hands of the different diplomatic managers, proceeded upon the same substantial idea, of a departure, on one side only, from that direction.

It is certain, that nothing like a natural monument, was contemplated by the Treaty, separate from the intersection of a correctly drawn meridian with a plainly marked geographical line of delimitation; and it then became, in order to determine the true dividing point between the different waters, a practical question of latitude and longitude. So it was treated in the original Conventions for settling it between Mr Rufus King and Lord Hawkesbury in 1803, and again between Messieurs Monroe and Pinckney and Lords Holland and Auckland in 1806. Undoubtedly, some idea has prevailed from an early period of the French establishment in Canada, that there were lofty regions of land skirting the St Lawrence, at no great dis-

tance; and this has never been shown to be false, particularly as seen from that side. A more graphic outline is probably presented to the view from that river. But what the Treaty calls for, is not a perspective traced on the horizon, so plainly, as a general character of elevation, sufficient to determine the direction of running streams. It had no isolated or remarkable eminence in its eye. Nothing of that kind was demanded. It was not so much a line on the sky and air, as one of the earth and water, that was really sought.—Passing by the extraordinary stipulation offered by Mr Livingston, as an inducement to the British Government, that the search for the supposed natural monument should be confined to the West, and all inquiry for it excluded to the East, there was no actual limit fixed to the deviation allowed by his proposal in this Western direction. The line, instead of being what it was designed to be from the source of the St Croix, an inflexible one, was intended to swerve westwardly by this process; first towards the river St. Francis. The same difficulty might be raised in one place, as well as another, in regard to finding objects of the description that should answer the created requirement; and the condition there failing, along in the vicinity of that last named stream, as it might equally be supposed to do, there might remain nothing of sufficient consequence to prevent that line from veering round still further to the West, until the radius should even sweep the whole quarter of a circle. The task of discovering highlands, thus answering to this artificial exposition of the treaty, (departing from the plain rule given by it for the purpose) it is meant to say, might prove to be as great in one portion, as another, of the territory North of the St John. It almost ceased, indeed, to be a point insisted upon, at a subsequent stage of the negotiation, whether the highlands in dispute should be sought North or South of the St John. A route was consented to be given to the nearest practicable object. It was consequently suggested by the British Government, as a natural solution of the question, under this curious aspect of it, that the situation of those highlands should be such, as both parties agreed to come within the description. This was nothing but a diplomatic subtlety of expression, employed to signify highlands, which were generally supposed to exist not far from the sources of the Chaudiere, and of the Penobscot and Kennebec, and perhaps of the Androscoggin; all which take their rise within no great distance; and supposing these last named rivers to be regarded as flowing directly into the Atlantic. This in-

genious idea was developed to the attention of the British Government by a publication on the question, as early as 1826; but it was never distinctly and boldly exhibited to the view of our own, until this recent opportunity; and then only after having been approached, circuitously, by certain ambiguous phrases. It can only be viewed as a species of legerdemain, to shift the real ground of the treaty. It would destroy every vestige of resemblance to the boundary of that instrument. The consequence of adopting the proposed expedient would obviously be, that a line, to be drawn directly from the monument, fixed at the head of the Saint Croix, to such a terminating point, instead of going to make an angle any where, according to the treaty, would stretch at once almost across the country towards the broken region rising, northeastwardly, above the head of Connecticut River.

Although this project was fraught with evil, and full of peril, from its first inception, it is not for an instant to be inferred, that any color was intended to be afforded by the American Government for so wide an aberration. But the proposition, as it was presented, and was capable of being employed, was pregnant with the most pernicious consequences. Its mischievousness was demonstrated, the more its operation was developed. The importance of being delivered from the influence of that incredible hallucination, which prevailed upon the subject, from the period of Mr. Livingston's erroneous and delusive idea, can only be conceived by observing the almost inextricable perplexity and confusion, in which it had actually involved the negociation; so as to leave no other resource in fact, but to ascertain the sense of Maine, whether the State would consent to a purely conventional line. And it is most manifest from seeing how far it had wandered from the mark, until the only point, at which there was any prospect of arriving, under the name of highlands, was neither, properly, North or South of the St. John, but upon some sort of neutral spot, out of the region of the question, in the neighborhood of the general head waters of the Chaudiere, on one side, and of those large rivers, that wind their way into the Atlantic, on the other. How little this would leave for the description of rivers flowing into the St. Lawrence is obvious. There would be but one. It is a noticeable circumstance, moreover, even in that quarter, that the intermediate spaces between contiguous sources of the principal rivers, where any dividing line, such as Great Britain would draw, must needs pass, namely, the St. John,

Chaudiere, Penobscot and Kennebec, are what are commonly called *portages*, or low, flat, carrying places, and sometimes mere swamps.—It is, surely, not the least remarkable, and wonderful, upon the whole, that with all the liberality of Mr. Livingston's proposal, and the varied allurements to its acceptance, the British Government should never have been willing to accede to it, without requiring it to be qualified with conditions, and loaded with stipulations, amounting to a concession of the whole ground of controversy.

It may here be mentioned, that the British Minister's reply to the Secretary of State of May 1, understands the modification mentioned in the offer of the latter to be confined to those communicated in his, Mr. Fox's, note of the 10th of February last. It is not perceived, that this reference is of any sensible importance, in regard to restraining the meaning of those expressions. It is not understood, that any further answer to this overture has yet been received from the British Government, beyond the customary forms of official acknowledgment. But in connexion with this correspondence, it may not be improper to advert to an unofficial letter, addressed, shortly after the communication of those papers to Congress, by Mr. Forsyth, the Secretary of State to a Senator from this State. This letter was written apparently to relieve any anxiety, which might be felt on the part of Maine, in consequence of the broad language of that correspondence; and to remove any reasonable ground of apprehension, that such scope might be intended to be given to the powers of a commission, as to endanger the determination of the true treaty line. It was declared in that letter, that the terms and principles, upon which such a commission was to be established, remained to be settled under the provisionary arrangement, and that they were still to be "discussed and decided upon, as justice between the parties and their respective rights shall be deemed to require;" and that the principal purpose in view would be to ascertain whether the true line could be drawn, as Maine constantly insisted, whenever the two Governments should proceed to do it, with a predisposition to accomplish it.

Before quitting this subject, it may be due to a just exposition of the present views entertained by the Executive Government of the United States to state, that there is believed to be sufficient ground for confidence, that the original form of the American proposition is no longer regarded at Washington in any other light than the one, in which you have been disposed

to treat it: That is, as laying a simple foundation for a final mode of arbitrement, entirely separate from the spurious principle of enquiry and survey, coupled with it, in the first place, by Mr. Livingston. It may not perhaps, be deemed improper to add, that this latter idea is, now, not only no longer adhered to, but that it is allowed to be an error, and understood to be abandoned. No further indulgence is claimed for it, than as it might consist with a reliance on the part of Mr. Livingston, that the result of the most unrestricted examination, as recommended in that manner by him, would prove to coincide precisely with the terms of the treaty. And the reason for resuming the subject, in the shape of the communication made by Mr. Forsyth to Mr. Fox, is understood to be, that it was thought necessary, or proper, to take up the negociation at the point, at which it was suspended, and supposed to cease. As the question now stands, however, it is fortunately freed from any such suicidal concession, as was feared in regard to it; and there is no further danger of any final deflection, either East or West, from the true North line. This assurance will afford no slight relief to the State of Maine, which wants no extension of its territory on one side, nor diminution on the other. It is certainly to be regarded as an auspicious circumstance, upon which I cannot fail to offer my congratulation, that the unaccountable misconception, which prevailed on this subject for so long a period, with such a disastrous aspect upon the controversy, to a degree perhaps neither foreseen nor comprehended, should have been removed, and renounced forever.

I have felt myself warranted in dwelling upon this point, and calling attention to its importance, not on account of its intrinsic and historical interest alone, but from its material bearing and influence upon the prospect of a just and rightful determination of the question.

Unquestionably the most important portion of my mission may be viewed as that, which related to the effect of the resolves of the Legislature, passed and approved on the twenty third day of March. Those Resolves originated from the communication, made by your Message to the Legislature, of the direct inquiry contained in the letter addressed to you by the Secretary of State on the first of March last, to ascertain whether Maine would grant her consent to a conventional line. And the whole subject having been by you thus submitted to their consideration, those Resolutions were thereupon deliberately adopted and approved, and are to be regarded as the settled sense of the constituted authorities of the State.

The first resolve expressed the opinion of the Legislature, that it was not expedient to give the consent of the State to the Federal Government to treat with that of Great Britain for a conventional line for the North Eastern Boundary; but that the State would insist upon the line established by the treaty of 1783.

The second, referring to the proceeding under the Treaty of Ghent, in relation to the appointment of an umpire, to which the State had not given her consent, and against which she had protested, pronounced it to be a grave question, whether the provision of that treaty had not performed its office, and was no longer in force, and declined giving the assent of the State to the appointment of a new arbiter.

The third enjoined upon our Senators and Representatives in Congress to use their best efforts to obtain the passage of the Bill, then pending in Congress, for the survey of the North Eastern Boundary of the United States, &c., and provided, that if the bill should not become a law, and if the Government of the United States, either alone, or in conjunction with Great Britain, or the State of Maine, should not establish and appoint a commission for such survey, on or before the first of September next, it should then be the imperative duty of the Governor, without further delay, to appoint forthwith suitable Commissioners for ascertaining, running, and locating the North Eastern Boundary line of this State, and to cause the same to be carried into operation.

The last directed the transmission of copies of the Message and Resolves to the President, heads of departments, and members of Congress of the United States, and the Governor of Massachusetts.

It is to be observed, that a bill similar to that pending before the House of Representatives, (and being a copy of it) was introduced into the Senate by one of our Senators, on the tenth of May. At that time, the bill in the House of Representatives had been committed to the Committee on Foreign Relations, and reported back to the House, without any indication of opinion on the part of the Committee; and it remained on the table of the House, awaiting any favorable opportunity for being taken up and acted upon.

As the establishment of a joint Commission for the survey of the Boundary line, between the Governments of the United States and Great Britain, came precisely within the terms of the Resolves, there can be no doubt, that the fact, which has

been mentioned, of opening a new negotiation for that purpose, was calculated to have some effect upon the existing state of the question before Congress. It is obvious, too, that if the knowledge of this new circumstance did not necessarily alter the prospect in regard to the proceeding, on the part of Congress, contemplated by those Resolutions, it did, of consequence, present further grounds for the deliberation of that body, arising out of the circumstance, that the Supreme Executive of the Nation, constitutionally charged with the conducting of its foreign relations, had in his own judgment and view of the subject, without question, entered upon the path which was understood to be marked out by these Resolves.

The Bill was afterwards taken up in the Senate, and its passage was advocated by the Senator from this State, who introduced it, and by the Senators of Massachusetts, and was defended, or discussed, by other distinguished members of the same body, in speeches of great ability, both on the question of right and of expediency. This discussion itself was continued, with intervals, on several days; and it was of a nature, at the same time, to throw much light upon the subject, and to develope the sentiments of the Senate upon the question. Some of the Senators, who took part in it, went largely into the character and merits of the controversy; and the whole question underwent a grave, careful, and deliberate examination. The opposite claim was exhibited and canvassed, on the grounds set up by the Government of Great Britain; and its entire want of foundation was shewn by the force and meaning of terms, the signification of which has been settled, over and over again, by Great Britain herself. After the most calm and thorough consideration of the question, and of the nature of the proceedings proposed, and of the consequences which might result from the adoption of different courses, the measure itself, finally, assumed another form, and the subject received a distinct ultimate direction of great importance, under the influence of the prevailing views taken of it, in this, the highest council of the Nation. These were views of the highest consequence to the rights of this State, and to the peace and dignity of the Union. They deserve to be fully explained; and it is desirable, that they should be duly apprehended.

In a survey of the progress of this subject in the Senate, it may be pertinent to observe, that the same destination evidently awaited it there, which had attended it in the House of Representatives, namely, the Committee on Foreign Relations. It was

announced by the Chairman of that Committee of the Senate, having, of course, great influence in that body upon questions of that character, that he should oppose its passage. At the same time he avowed himself, decidedly, in favor of the right and justice of the question being with the State of Maine. It is fit further to add, that his subsequent part in the discussion, and final disposition, of the subject before the Senate, fully sustained, and with matchless force vindicated, the opinion he had thus advanced in our favor. Among the Senators most conspicuous in the part they took in support of the same opinion, with Mr. Buchanan, may be mentioned without perhaps any impropriety, Mr. Williams, Mr. Webster, Mr. Davis, and finally Mr. Clay. And the sentiments maintained by them, were seconded at subsequent stages, in more brief, but sometimes in not less energetic terms, by Mr. Tallmadge, Mr. Rives, Mr. Calhoun, and Mr. Allen. Other gentlemen were prepared to have expressed themselves to the same effect, if it had been important. It is only necessary to say, that the most entire accordance of opinion was manifested in regard to the main question; and that the subject was, in consequence, committed to the Committee of Foreign Relations, with the intention distinctly signified, that it should result in a strong report, accompanied with decided Resolutions, in support of the right of the State to the whole territory, which it claimed by the Treaty, and expressing at once the duty and determination of the General Government to maintain it.

The commitment in this manner was finally decided, without any dissenting voice, excepting that of one of the Senators from Massachusetts, Mr. Davis, who, without derogation from the merits of any other honorable member of that body, it may be due to say, distinguished himself, throughout the debate, as the inflexible and unflinching champion of the rights of Maine, and of the position she had assumed, and the principles she had maintained through circumstances of great trial to her fortitude and forbearance. Maine, he declared, was in earnest, and ought to be sustained. And if the immediate measure, she was so anxious to secure, failed of accomplishment, it was certainly for no fault of this firm and resolute vindicator of her cause. The endurance and patience of Maine, also, under the long vexatious course of delay attending this protracted controversy, and under circumstances of strong excitement to her sensibility, were adverted to, and acknowledged, not by him alone. Emphatic allusion was made, in terms of high

national feeling, to the injury and indignity she had suffered in beholding the seizure and incarceration of our own citizens, while engaged in the exercise of civil rights, or employed in the performance of public duties. Pointed notice was, also, taken by the Senate of the unwarrantable assumption of actual jurisdiction by the Government of Great Britain over a large proportion of the territory in question. Among the circumstances of this offensive stamp, brought forward to the attention of that body, in tones of indignant complaint and remonstrance, one of the most exceptionable, and obnoxious, was the free marching of British troops across the territory, without even asking the consent of Maine, or the United States. No greater violation of the sovereignty, and independence, of a State, or Nation, it was strongly conceived, could exist.

While many acknowledgments are deemed due, on behalf of the State, to various individuals, in both branches of Congress for their friendly and efficient services to it upon this question, I am bound to express a personal sense of obligation to the Senate Committee of Foreign Relations for the extension of peculiar favor and courtesy. And I should do injustice to my own convictions, if in the ready recognition which is rendered to the great merits of the Senators from Maine, Massachusetts, and Pennsylvania, on this subject, I should neglect to notice the effective and important part, which was performed, on this occasion, by the eminent Senator from Kentucky. Above all, it is fit that I should bear my testimony to the faithful and effective co-operation of the delegation from this State, together with that of our mother State of Massachusetts. And I will take the liberty to add, that the interests of the mission were, in my estimation, materially aided by the favorable manner, in which they were recommended, both by yourself and by the Governor of Massachusetts, in your letters of recommendation to the respective delegations.

The Report of the Committee was made to the Senate on the memorable fourth of July. The clearness, cogency, aud ability of that valuable and important document were acknowledged upon all quarters; and elicited the most decided expressions of applause from those, who had the best opportunities of forming an enlightened judgment of its merits.

This Report was accompanied with Resolutions, three in number; the first of which declared, that after a careful examination, and deliberate consideration, of the whole controversy between the United States and Great Britain relative to the

Norrheastern Boundary of the former, the Senate did not entertain a doubt of the entire practicability of running and marking that boundary, in strict conformity with the stipulation of the Definitive Treaty of 1783 ; and that it did entertain a perfect conviction of the justice and validity of the title of the United States, to the full extent of the territory in dispute between the two powers.

The second Resolution, recognizing the amicable endeavors that had been made between the two countries to settle the controversy, and adverting to the danger of mutual irritation and collision upon the borders of two kindred and friendly nations from further procrastination, and alluding also to the lapse of time since the conclusion of the treaty, and to the negotiation then on foot, referred to, and, in effect, reprobated the extraordinary delays, that had hitherto marked the whole course of proceedings for the settlement of the question, and expressed an earnest desire, that the pending negotiation should be brought to a close, and a final determination take place, as early as possible.

The third declared, that it would not be expedient for the United States to take any separate course, upon their own authority; for a survey, and to mark the boundary, until all reasonable measures of effecting the object, by concert between the two parties, should have been exhausted; and therefore recommended that no further proceeding should be had with the Bill.

This Report was accepted; and these Resolves were passed unanimously. Twenty thousand copies were ordered to be printed. The whole subject was thus spread before the country, and the world. This was the first full, and deliberate, expression of that body upon it. And when we consider its solemnity, and the character of that august assembly, the weight and importance of that opinion must be regarded as immense. Previous to that time the subject had only been before the Senate under special and limited aspects. Singular as it may seem, it was admitted not to have been generally understood, and to have been little considered, or indeed realized, among the community. The question was one, which had presented itself to minds of the first intelligence, in other parts of the Union, very much in the light of a local controversy. It had been regarded, in some measure, as a remote and obscure border difficulty, about which there might be room for different conclusions; and was not looked upon as of a nature to interest, or require, general attention. This idea was

entirely dispelled. A new light, moreover, was shed upon the subject. The discussion itself had served, in an extraordinary degree, to fix the attention of the Senate, to many of whose members the impression was comparatively new, upon the intrinsic merits of the question; and a conviction was produced among all who were present, and who were not in any foreign interest, no less in favor of the integrity of it on our part, than of its character of immediate public importance. Opinion in these respects was informed, enlarged, convinced, and concentrated. The most perfect accordance displayed itself upon all quarters; and it was emphatically acknowledged, and expressed, from all parts of the Union, that Maine had made out a clear case.

The deliberation of the Senate ended, as has been shown, in pronouncing its entire persuasion of the unquestionable right of Maine as one of the United States, upon absolute principles of truth and justice ,to the whole extent of her territory, according to the treaty of 1783.

It was thought, too, that the day on which this report was offered, was appropriate to the occasion. It was deemed propitious to the adoption of the Resolutions; and the Senate yielded, spontaneously, to the lofty impulse of patriotism, in proclaiming the force of their profound convictions on the subject, and uttering the decisive annunciation of their sentiments, on the Anniversary of National Independence.

The happy effect of this measure of the Senate was strikingly visible in its immediate influence upon the proceedings of the House, to which the same patriotic influence communicated itself, and which responded, at once, to the declarations of the Senate. The two first Resolutions were adopted by this body, in the same form, and with the same unanimity. The only difference, in the course taken between the two branches of the National Legislature, consisted simply in the circumstance, that the House of Representatives withheld its concurrence in the opinion, that the bill for the survey ought not, at present, to pass, and confined itself to leaving it untouched upon the table.

It may be appropriate to mention, that the original bill was introduced by one, and the motion to adopt these Resolutions was made by another, of the Representatives of Maine. This motion was authorized by the Committee on Foreign Relations, to whom the Resolutions of the Senate were committed in the House, and agreed by them to be reported in this manner.

In estimating the weight and importance belonging to this

perfectly united expression of the judgment of Congress, both as an exposition of its opinion upon the question, and as an element in the process for its settlement, effectively combined, we cannot but be sensible of its vast consequence to the vital interests of this State and Nation. And it is impossible not to feel how greatly its value is enhanced by that entire unanimity. As considerable attention has heretofore been paid by the Government of Great Britain to the proceedings of both branches of Congress on this subject, even to the counting of numbers on different sides upon incidental divisions concerning this question, in the one as well as the other, it is not improbable, that there will be no less regard to the tone and import of this undivided declaration. It will be seen, not only that there is no want of harmony, but that there is no state of apathy existing, upon the subject. Throughout this nation it will be found that we are all of one heart and one mind.

It is justly to be considered as a solemn act of the United States in Congress assembled.

The favorable effect of this important measure was manifested, moreover, in the consequent readiness of Congress to take up and act upon the subject, which had been referred to it, respecting the indemnification of the State for the payments made to Greely, and others, on account of their sufferings. Provision was made for this purpose, it may be shortly stated, at the last moment of the session. This was done by virtue of an appropriation introduced in the Senate, and adopted at once by the House. It was made in conjunction with the appropriation for finishing the Road to Mars Hill. The importance of this proceeding did not, by any means, consist, as has been already suggested, in the amount of the appropriation, which was for all that was asked, and if that had been greater, it would not have been regarded as excessive. Its value is not to be measured by any proportion of that kind. It was a further ready and liberal avowal on the part of that body, the Senate, in which it originated, assented to promptly by the House, affirming the sense of Congress that the assumption of absolute jurisdiction by the official authorities of Great Britain over a portion of the territory of Maine, aggravating and offensive in its character, had been accompanied with circumstances, as expressed in the Report, calculated deeply to wound her sensibility. This was all that remained, in fact, for Congress to do, in order to carry out, to its full practical effect, the opinion it had previously pronounced; and I trust I am not violating any rule of delicacy in observing,

that, in this point of view, I have reason for the belief, that the honorable Chairman of the Committee on Foreign Relations of the House of Representatives eventually concurred in its propriety.

I have the honor to present copies of the Report and Resolutions of the Senate, of which I have been favored with a large number, with the accompanying maps, for the use of the State; and to subjoin the resolutions of the House, and an extract of the appropriation above mentioned from the Bill, in which it was contained; and to state, that I was promptly enabled to receive the amount by the Secretary of the Treasury.

In reconciling ourselves, then, in Maine, to the event of those proceedings in Congress, so far as they inferred the immediate loss, or imported the mere postponement of the Bill to provide for running the Boundary line by the supreme authority of the United States, it certainly behooves us to consider, that this was in the exercise, in the first place, of the deliberate judgment of the Senate, which is, of itself, a co-ordinate portion of the national Executive, in its public relation to foreign powers, and may be called to become a party to the pending negotiation. It befits us, also, to remember, that it arose from no insensibility to our rights, or want of sympathy in the injuries of which we complain; nor from any design to defeat such a course, as should be adapted, upon their own view of the whole case, certainly, to bring the business to the most safe, expeditious, and beneficial conclusion. But, on the contrary, each branch of the government was animated by a most entire and sincere desire to do every thing in its power to secure the most effectual, final vindication of our rights, consistent with the present condition of the country, and the political relations of the government. With all the obvious motives on our part, to press for immediate action, it was impossible not to perceive that there was the fullest disposition to do every thing, that was fit to preserve the rights, to protect the interests, and to consult the feelings of Maine. Perhaps it may yet become a question, worthy of reflection, whether there has not even been a compensation for the measure that was proposed, in the course that has been adopted. While we may not, finally, be without some regret, that a measure so evidently calculated to bring this vexatious subject to a close, could not have been accomplished, it may be difficult to say, whether more could have been justly demanded of Congress, in the actual posture, and circumstances, of the question.

If the People of Maine should, still, not feel able to bring their minds to the same practical conclusion on the subject, in regard to the expediency of the immediate measure before Congress, they will not, without doubt, fail to consider and respect the paramount right of opinion in the highest deliberative councils of the nation. Should the second Resolution of Congress have its due effect in speeding the negotiation to an issue, by the establishment of a joint commission for a survey of the boundary by the first of September, the Resolves of the Legislature of Maine will be strictly fulfilled. If, owing to circumstances beyond the control of the National Executive, the arrangement should not be completed within that period, it might certainly seem fit for the same Legislature to judge, if it were still in session, what effect the proceedings of Congress might be proper to have upon the state of those Resolves; and how far their present purpose might be considered as answered, and their further execution might be reasonably postponed. Supposing the time fixed not to be considered as the absolute essence of those Resolves, it might perhaps be suitably submitted, in that case, whether their operation could not be suspended, so as to allow of further space for the establishment of such a commission, as was contemplated through the medium of the general government. But the Legislature had not the spirit of prophecy. It provided for no such emergency. It delegated no such power. It had completed its business, and adjourned. It has imparted no discretion in relation to the subject. Indeed, there is evidence, from the manner in which it was left, that the Legislature did not mean to relax in its purpose. Its action, therefore, upon it necessarily refers to the rule of the Constitution, which has lodged no such faculty in the hands of the Chief Magistrate as to enable or allow him to dispense with the laws of the land. The constitution expressly provides, that the Governor shall take care that the laws be faithfully executed. In the event that none of the contingencies provided for by the Resolves takes effect by the time prescribed, they positively direct the appointment of Commissioners and Surveyors to be made, and the necessary steps to be taken for causing their object to be carried into operation. The injunction is absolute. The Resolution they record is to be regarded as irrevocable. It is to be presuned, it was not intended to be rescinded. It was designed to stand, as a perpetual expression of the inflexible purpose of Maine. It contemplated, only, the contingency of being substantially superseded, or rather the liability of those Resolves

being prevented from going into active operation, (a result which they looked to as a probability) by a regular exertion within that period, of that higher power of the general government which they invoked.

It is deeply to be felt and acknowledged, that Maine ought to avoid any thing, in the present posture of the question, that should either conflict with her obligations, or be at variance with her just relations toward the Union, or violate her proper respect for its high constitutional authorities. She should be most anxiously careful not to offend the feeling of the country so distinctly pronounced in her favor; and above all, it is incumbent not to forfeit her well earned title to that strong manifestation of good will and patriotic determination, by the voice of Congress and the community, to stand by and maintain her right by the whole might, moral and political, of the confederacy. Yet it is not apparent, that any well founded exception can exist to a compliance on her part with an absolute requirement of the Legislature, so far as it is not plainly repugnant to the will of the nation. It is certainly to be hoped, and most earnestly to be desired, that the country will not consider an obedience, up to that point, of an all but organic law of the State, lying in fact at the very foundation of its whole structure, and relating to a large proportion of its own soil, by its Chief Executive officer, as compromitting constitutional principles of Government.

From the path, upon which Maine has entered, difficult as it may be, especially, for her to pursue her course alone, there is plainly no retreat, except upon those conditions, which are pointed out to her; and which are prescribed, not by any rash or capricious purpose, but by the stern and imperious necessity of the case. The law, in its present state, leaves no alternative. The Resolves of the Legislature are imperative; and they express the determination of the people. The movement was not the result of passion, and the purpose does not permit any vacillation. It is the demand of the People of Maine, that the line shall be run. The unanimous verdict of the Country has been pronounced in favor of their right; and Congress, certainly, has not in this, or in any other manner, expressed any opinion unfavorable to the proper proceeding of the State, within its clear limits, upon its own responsibility. In the situation, on the other hand, in which Congress felt obliged to leave the subject of a survey by the national authority, from the pending state of negotiation, it is not to be infer-

red, that public sentiment might not be satisfied with such a construction of what has taken place, on the one part and on the other, as should leave Maine free to follow the true line of her own Resolves, until there should be a virtual compliance with their positive requirement, in the first instance, by means of an actual arrangement between the two Governments, or the Federal Government should adopt a course of its own in relation to the survey; and that the sense of the country, it may be inferred, would not be against our proceeding to that extent. Such a course, on the part of Maine, might not be deemed to be unsuitable, in the first place, to maintain her consistency, and to manifest the constancy of the State, and to give a character of completeness and firmness to its action. It comports with the freedom of our political system, and it cannot incur the rebuke of those, who respect the proper authority of the States, while they may not yet rank them as sovereignties. It cannot under these circumstances especially, and probably will not, be disapproved by those who reflect how much is fitly, or unavoidably, left to their appropriate action. Something may possibly be allowed, also, to the injured spirit of liberty and independence.

There can be no question, that the right of a party to obtain evidence to support his title, in a case of contested boundary, is as clear, when it is applied to facts resulting from examination of the face of the earth, as when that evidence is to be derived from the production of written documents. And when it is recollected, how imperfect have hitherto been the proceedings adopted for the purpose of survey, and that there was no question of the right then existing in Massachusetts, to cross the St. John in 1798, it may well be presumed that, even allowing for the ordinary delays of diplomacy, there will still be sufficient opportunity afforded for the establishment of a high commission, if it should be thought expedient, by the joint act of the Supreme powers, in season for the final determination of any important question. In that event, relying upon the predisposition of those governments to accomplish the purpose, and supposing an arrangement to be framed upon terms and principles, that ought to be satisfactory to Maine, it may not belong to any one, perhaps, in the present state of the subject, to anticipate what influence or bearing it might be thought proper to have, in the judgment of an ensuing Legislature, as to the actual condition, or further progress, of these Resolves. However far they may have been carried into operation, it may be

observed, before that period arrives, there will yet remain ample room for the appropriate exercise of National authority, in order to complete the work. The office prescribed by the Resolves is to ascertain, run, and locate the Boundary line. The first step in the process is, to cause it to be ascertained. That will be the province of the Commission. It may still be the prerogative of the Government of the United States to establish it.

It may be borne in mind, also, that there is a power, vested by Act of Congress, in the President of the United States, to carry into effect the required survey, which will not in fact expire until the end of another session of Congress, there being a regular and adequate appropriation for that purpose. In this respect, it may be noticed, that there is some parallel in the positions of the principal executive officers of the United States and of this State; with this difference, that the duty imposed upon the Governor is, in its terms, peremptory, and admitting of no escape; while that, which is assigned to the President, is by him deemed to be of a more modified and discretionary character, and to be capable of being affected by other circumstances, arising in regard to the due discharge of his high constitutional trusts. This is a power, however, still subsisting in full force, and one which can be executed, or which may be employed to provide against any undue delay, or neglect to complete the contemplated arrangement.

In relation to this subject, again, it is to be duly remembered, that the President has recently expressed the just and energetic sentiment, that no nation should suffer long to remain in dispute the true line, which divides its own possessions from those of other powers. This dignified and patriotic declaration is still in force, and in fulfilment. Meantime another session of Congress is approaching, before the annual meeting of the Legislature, and we cannot but look, as it behooves us to do, with entire confidence and respect, towards the guardian power of the General Government, which has given its sure pledge for our protection and support.

There is an important point, upon which one of the Resolves has a direct bearing, that remains to be adverted to. It was therein declared by the Legislature to be a grave question, whether the Treaty of Ghent had not performed its office, and was no longer of any effect. The Legislature might have gone rfather, and declared, that there was no doubt about it. If it

were necessary, I might be justified in adducing the authority of the most wise and experienced statesmen in the country, that there is no question. That provision has spent its force. And with it has vanished all visible form of the British claim, and every color of pretence to possession, within the barrier line from the St. Croix, any where, to say the least, on this side of the river St. John. By denouncing the description of the Treaty of 1783, and declaring it to be incapable of execution, the British Government has, in fact, renounced its own position, under pretext of the Treaty of Ghent, by which it undertook, through its agents, to mark off its bold outline from MarsHill. It relies entirely on its transcendent pretension to original sovereignty over the whole space. That Government, indeed, has gone as far as our own, in denying any binding effect to what has been done under the Treaty of Ghent, in any shape; and an end is put, of course, to any imagined obligation on the part of the United States, (resulting from nothing else, that has ever appeared, than some constructive operation of the Convention, which was formed under the provision of that treaty) to cause Maine to abstain from the due exercise of the rights of property and jurisdiction, which she holds on her own behalf, and for the benefit of Massachusetts, over all her territory. Nothing can be more remarkable, in fact, than the weakness of suffering so large a portion of the original domain of this State to pass under the unquestioned control of a mere provincial warden, unless it may have been the prior unguarded, and most improvident, admission of that monstrous claim, under the mask of a treaty compact, of which this proved to be a fruit, and by means of which this enormous imposition has been practiced. The consequence has been a long and disastrous period, during which the lawful authority of this State has been interrupted. Immense tracts of timber, among the finest in our forests, have been stripped, and have disappeared from the territory, of which no account has been rendered, or, probably, will ever be obtained. Services, innumerable, of civil process have been made, and military executions enforced. Citizens have been arrested in their dwellings, and dragged from their firesides to foreign prisons; or have been driven from their homes to find shelter in the wilderness; and one third of the territory of Maine has been almost surrendered to the custody of the British Crown. There can be no greater indignity to a free and independent State, than thus to have an

entire portion of its soil subtracted from its own, and reduced to foreign dominion. Great Britain herself would not endure such an outrage, in the remotest corner of one of her Islands, for a moment. Surely such an usurpation is no longer to be tolerated.

While the active assertion of a foreign jurisdiction is thus totally subversive of the rightful authority of the State over its own terriory, the assumption, on which it is founded, is justly offensive to the character and independence of the United States. I refer to the demand of Great Britain, based upon the position of original sovereignty. This recent and high toned pretension, equally absurd and injurious in its whole extent and operation, becomes still more gross and audacious, it must be remarked, when it is undertaken to be advanced across the boundary line upon this side of the St. John. It will be well remembered, that Great Britain absolutely relinquished all idea of possession, south of the bend of that river, in 1798; and it is not to be forgotten, to how small a "portion of unsettled territory," as it was expressed, outside of course, in its very terms, of the settlement of Madawaska, her doubt extended, to the utmost, in 1814. Nothing can be more astonishing, than the ground since taken, after such an acknowledgment, and the confidence with which it was finally assumed.

It may be observed, that although processes have been frequently served, and repeated seizures of timber have taken place, on the lands and streams south of the main St. John, and even along the region of the Aroostook, authority from abroad has not been there exercised with altogether so high and strong a hand, and its demands have not been put forward with quite so much vigor and determination, as within the limits of the upper tract of territory, lying upon the river Madawaska. It is hardly to be presumed, that at this period, however, British authority will be undertaken to be any further extended by fresh acts of interference with our surveys and locations, within the line, on this side of the St. John. That day has probably passed away. Even the King of the Netherlands saw no pretence to be set up South of that point. And now that the supposition of any implied agreement, such as has been alluded to as arising under the article of the Treaty of Ghent, for abstaining from the rightful exercise of jurisdiction, must be necessarily inferred to have shared the fate of that provision, and to have ended with that emergency from which it originated, it may well be supposed that no similar concession will be made, and

that no obstacle be interposed to prevent Maine from occupying in the first place, exclusively, to the junction of the north line with the St. John. Maine will undoubtedly wait, wherever the sense of the nation shall express, in regard to the final establishment of her boundary beyond. But can the national honor brook the idea of even a silent renewal of such a surreptitious compact for the future, by which Maine shall be thus debarred from affording protection to her own soil and citizens, so long as atonement is refused for the injuries of Baker and Greeley? Nor let it be forgotten in the record of the past, that while Maine has, again and again, been called to make indemnity for the wrongs which her citizens have suffered, she has made no reprisals, nor retaliation, upon those by whom they have been inflicted. With this severe experience of the abuses which have been practiced, under the pretence of a diplomatic understanding, which she has ever repudiated, is it to be expected, that such patient forbearance shall longer be continued? Shall this unfounded foreign interference with the just and acknowledged right of possession, on this side, especially, of the intersection of the St. John be any longer tolerated? If it does not cease at once, it ought to have a period put to it forever.

In regard to that point in my commission, which was connected with the importance of taking active measures for the defence of the frontier, and the establishment of military posts, as before referred to, my own portion of service has been necessarily limited, in the first place, to the several conferences, for which opportunity was afforded to me with the Secretary of War, in which his attention was earnestly solicited to the subject, according to those views which were suggested by you; and to an interview, secondly, with the Committee of the House of Representatives on Military Affairs, relating to the same subject, while they had under consideration the increase of the military force of the country. From declarations of members of that Committee, individually, and in debate upon the bill reported in the House, I understood, that their recommendation of such an increase was influenced by a due regard to our exposed position. I can add, with great satisfaction, that every disposition was manifested by the Secretary of War to comply with the wishes of Maine, in all respects consistent with the limited means at his disposal, and compatible with the maintenance of those amicable relations with Great Britain, which the Executive was desirous to cultivate.

As, in conformity with your requests, conveyed in previous

communications, General Wool was directed to visit the State, and confer with you in relation to the objects already mentioned, and it would be in my power but little more than to repeat what passed upon occasions when I was present, in which these objects were recommended by the Secretary to his careful attention and correct military observation, and as much was left to communication, under his general instructions, with yourself, I may, with more propriety, refer to your own more perfect knowledge on this subject, derived from your late tour with him, and resulting from information from him.

And now, sir, in looking back with as much satisfaction as I may, and reflecting with feelings, which I cannot entirely forbear, upon the progressive course of what has taken place on this subject, in pursuance of the various Resolves of the Legislature, and under your instructions, resulting, as has been seen, in the strong expression of Congress, with the final concurrence of all the branches of the Federal Government, in regard to the unquestionable character of our rights, and the just resognition, also, of our reasonable claims, several points appear to present themselves, as deserving of distinct and special consideration. To these I would beg leave to call attention, in a summary manner, before closing this already extended report.

If in this, or in any other particular, I should be deemed to exceed in any degree the precise line of duty, intended to be marked out for me, I hope it may be pardoned to the spirit, with which I entered upon it, and the interest which I have, with others, long felt in it. The people of this State, I should wish, might have the full means, through you, of understanding the importance, as well as fidelity of what has been executed, according to the purposes of these Resolves, and accomplished by your directions.

The first remark I have to make upon this course of the State is, that it has resulted in proceedings, which have fully nationalized the question. Both branches of Congress have come forward with one voice, and have adopted our acts and assumed our case. Perhaps it may be more fitly said, that they have made it that of the country. The cause of one, even the humblest citizen of the State, has been acknowledged as the cause of all. In this respect I may even say, that there has been a generous, and almost emulous, reclamation of it, from the light in which we have been left to regard it ourselves. It was denied, in a liberal and lofty spirit, that this was a ques-

tion, in which Maine alone was concerned. It was insisted with energy, to be one, which equally interested the whole Union. The patriotic sentiment was advanced, that Virginia herself, for example, was as much a party to the question as any other portion of the confederacy. On this subject there was, in truth, an avowal of national sympathy, of which the chord has already stretched through the whole circuit of the Union, from one end of it to the other, and extends its vibration throughout the West. This was certainly a testimony no less earnestly to have been wished, than warmly to be cherished. Assuredly, there is no view that can be taken of this subject, by which we can fitly separate ourselves from the rights, feelings, and interests of the Republic.

Secondly, the determination of Maine to reject a conventional line was approved, and her course in that respect spoken of, in terms of the most marked and unequivocal commendation. By none was this approbation more decidedly and emphatically expressed, than by the honorable Chairman of the Committee of Foreign Relations in the Senate; who, although he had seemed to labor under some transient misapprehension as to the immediate spring, or perhaps, prudence, of her proceeding, yet suffered no vague impression of that kind to cast any cloud over the clear merits of the case, to check the sound dictates of his understanding, or to chill the patriotic impulses of his heart. Let the right be first recognized, said the Senator from Massachusetts, who entered most fully and forcibly into the argument, let the line be run, and the boundary be established, before Maine shall be called to listen to any other suggestion. As to the real discretion of her proceedings, I may observe, that it is to be determined by the results; of which there has already been sufficient manifestation.

It will, undoubtedly, be attended with no small feeling of satisfaction to the people of this State, it may be believed, after all the assiduity that has been employed, and the ingenuity evinced, to give the subject a conventional direction, through so long a course of diplomacy, as to render it necessary, in the last resort, for the sense of Maine to be formally required, as the only practicable solution, that the rectitude and firmness of her final recorded resolution should be distinctly acknowledged and applauded.

Thirdly, the arrogant pretension set up on the part of Great Britain, at the point of the peace of 1783, that is to say, that she was then in the position of a superior power exercising her

right of sovereignty in marking off the limits of territory, which she was then meting out to an inferior, who could take nothing but by virtue of her concession, was firmly and temperately repelled at the outset, with a strength and dignity worthy of the same distinguished Senator of Massachusetts. This false and revolting assumption, equally in regard to fact and principle, was denounced with no less decision, and the contrary claim of our co-equal character of sovereign right, in the capacity of State or Nation, asserted and sustained by the able Senator from Pennsylvania, as well in his principal speech, as in the valuable Report, of which he was the author. And the Senate, by its deliberative, solemn act, has affirmed the same conclusion. As an exposition of a sound, and most important, principle of public law, in relation to our political condition, upon this point, we bow to no higher authority. The opposite idea, so prejudicial and baneful to us in every respect, was properly treated as an obsolete relic of doctrines belonging to the remote and antiquated barbarism of despotic power. It was one which had been advanced in the negotiations of Ghent; where it was brought to bear, with sweeping force, upon our rights alike in regard to the ocean and the land. It involved, and jeoparded, our fisheries, as well as our boundaries. It was closely connected, too, with that abandoned and foregone claim of impressment, out of which, more than any other real cause, that painful conflict arose. This idea, it may be observed, was perfectly exploded, in a correspondence, which took place soon after the termination of the contest, with one of the British Ministers, Lord Bathurst, by Mr. John Quincy Adams. It was regarded, in fact, as going to the very root of our Independence. And you can easily conceive, how such an idea, so entirely and absolutely at war with our character as a people, would be dealt with by the sons of patriotic sires, who have received their glorious inheritance from the Revolution.

The practical inference, I should perhaps have observed, that is drawn upon this point, on behalf of the Government of Great Britain, from this high and paramount pretension, is, in the first place, that all the territory, which has not been proved to have been, by treaty, ceded by her, belongs to her still. That, until the line shall be established to the satisfaction of both parties, the whole of the disputed territory ought to belong to the British Crown, because Great Britain is the original possessor. And, finally, that no part of the disputed territory

has ever been withdrawn from her sovereignty, in consequence of the defective description of the line of boundary in the treaty of 1783. This last form of the pretension is fully disclosed in the diplomatic correspondence lately communicated on this subject to the British Parliament. It is unnecessary to repeat, that the whole principle of it was put an end to by the opinion of the American Senate.

Fourthly, it may be further observed, that it was recognized and well established, both in the discussion, and in the Report referred to in the Senate, that Maine was not absolutely without a boundary, even if the description of the Treaty should possibly be doomed to fail, and the provision of that instrument should be entirely construed away; saving, that is, the delimitation by the due North line fixed from the source of the St. Croix. By Mitchell's map, upon which all agree, the boundary, then to be sought for, was originally upon the St. Lawrence. There, by common consent, lay the original North West angle of Nova Scotia. With that the Northeast point of New England was coincident; and the two territories were conterminous. Such was the claim accordingly, by Massachusetts and Great Britain both, until the year 1763; when an alteration was projected by the latter, without the consent of the former. The Royal Proclamation of 1763 was never assented to by the colonies, whose limits it curtailed. It was complained of, on the contrary, as an infringement of their charters. The Quebec Act of 1774, to the same effect, was opposed, also, as in derogation of their rights, and was solemnly protested against, as an act of flagrant despotism. Massachusetts, when she was under the crown, never subscribed to either. Nor did she ever, as one of the United States, express her acceptance of the exact description of boundary, contained in those several acts of the Crown and Parliament, any further, or otherwise, than as the same terms were adopted, inserted, and incorporated in the description of the treaty of 1783. And if that is rejected, as devoid of import, and having no binding force whatever, Maine would justly be remitted, and ought now to be restored, to the original rights of the Commonwealth of Massachusetts. In that case her disputed boundary rests upon the bank of the St Lawrence. It is not necessary to remark, at the same moment, that Maine has never advanced any such actual pretension; although she might well do so, provided the description of the Treaty were to be absolutely annulled, and renounced as entirely defective; excepting, as

before mentioned, in so far as it fixes the due North line to start from the source of St Croix, and fixes the mouth of that river in the Bay of Fundy. So far as the Treaty carries her, Maine means to go; and no farther. She intends to confine herself strictly within its limits. But she does not mean to concede, in advance, that she is without any bounds, except such as the cupidity of a foreign power may choose to assign her.

In connection with this point, I hope it will not be regarded as an improper digression, nor as trespassing unduly upon your indulgence, to detain you by remarking, that all that Great Britain ever pretended to lay claim to, as parcel of the Province of Quebec, erected upon the peace of 1763, after the conquest of Canada, and as lying upon the right bank of the River St. Lawrence, was nothing more than a limited strip of land along its southern border. This was all, that was then contended to be comprised within the description of boundary north of the line of dividing highlands, as it was traced by the terms of the Proclamation of 1763. In the late discussion and Report referred to in the Senate, it was correctly apprehended, that the line of the boundary, as described in the treaty, reached to, and then stretched along, those highlands which lie at the heads of the streams flowing north into the river Saint Lawrence. That portion of the description was justly deemed to be infallible. Although the United States, it may be observed, were not bounded in direct terms, by the limits of the adjacent British Provinces, as such, (a mode which might be liable to some objection) yet it is undoubtedly true, that the established boundaries of the then contiguous Provinces of Nova Scotia and Quebec were adopted, in the same substantial and almost identical terms, which had been previously employed to designate them by Great Britain. The original boundaries of those two Provinces, therefore, as they were established at the epoch of the Revolution, are to be properly so far regarded, as they joined to constitute the northwest angle of Nova Scotia, which is, in its strict terms, a British, rather than American bound; and those terms, accordingly, are to be resorted to, to explain and determine the import of the equivalent, or exactly similar, expressions employed, for precisely the same purpose, in the treaty of 1783, as they were then, and since, universally understood. Indeed, although it is not absolutely denied, to this day, that such was the original force of those expressions, as applied to the boundaries of the British Provinces, that same signification, it is pretended, was somehow

lost in their being reduced to the description of the treaty of 1783. There can be no question, that such a point, as the northwest angle of Nova Scotia, to be thus constituted, was considered to have a proper existence. The circumstance objected by Great Britain, of the due north line from the St. Croix having to cross the St. John and the Restigouche, in order to arrive at the intended highlands, is really of no more importance in regard to one of those rivers, than the other. In the various English maps of the country, from 1763, when the proper north west angle of Nova Scotia was established, until 1798, when the corresponding point at the source of the St. Croix was determined, (by which the question was in fact settled,) it may be noticed, that the map line, from whatever river was marked and laid down, as bearing the name of St. Croix, was traced always across one, and the most important, of those rivers, viz: the St. John, and sometimes both. It crossed the Restigouche, as often as that river was extended upon any map west of the north line. When the old American Congress proposed to take the St. John for the St. Croix, (an idea, for which it was stated by Mr Jay, who was partially conversant with the subject, that respectable opinions in America were not wanting, and one, with which the recent, likewise rejected, overture of Mr Forsyth to the British Government coincides,) the effect of which would have been to change the northwest angle of Nova Scotia to the source of the St. John, it is well known, and has been shown, that they did not refer to the river on Mitchell's map, which was not the one before them; and there is no doubt that they had in view the head of the Madawaska branch, or source of Lake Temiscouata. And when they concluded, by their instructions, not to insist on carrying their claim so far as the St. John, it is a plain perversion of their meaning to suppose, that they were looking in any other direction, than towards the seaboard. The St. Croix of Sir William Alexander's grant of Nova Scotia, as all agreed, must have its mouth in the Bay of Fundy. This condition was fully complied with by the St. John, although there is no sufficient reason to suppose that was the river really intended. In receding from the mouth of that river, however, to the Maguagadavie, (which was marked as the St. Croix on Mitchell's map,) or, as it was finally fixed, to the Schooduc, the northwest angle of Nova Scotia vibrated, until it finally settled at that point, where it was actually intended to be established, by the intersection of the due north line drawn from

the source of the St. Croix, whenever determined, with the dividing highlands, exactly according to the terms of the Proclamation in October, and the commission to Governor Montague Wilmot in November, 1763, and exactly as it was delineated and adopted in the treaty of 1783. It is remarkable, that there is not an original English map of the last half of the last cencentury, containing this territory, which does not distinctly place this northwest angle of Nova Scotia on the north side of the present main branch of the St. John.

Perhaps it may not be thought to be of much consequence to advert, in this connexion to another idea, that has been held up by the British Government; which is, that it was intended to reserve to Great Britain the whole of the rivers that flow through her territory. There is no foundation for any such pretense to be derived from the terms, or import of the Treaty of 1783. Such an idea is a mere afterthought, as is indeed the whole argument, on which the claim she has advanced of late years rests, and which stands in striking oppositon to her oft repeated, and recorded confessions. The mouths of the rivers could be fixed without difficulty; but the more remote branches and sources of those which fell into the Atlantic had not been ascertained; nor was a minute attention probably paid to that circumstance. It was one of no leading importance. A different and firmer line of demarcation was determined on. The St. John, itself, is after all, the main river, and much of its length, the only one, which is directly divided from the tributaries of the St. Lawrence, by the line above its own, along the large extent of its upper course. The southwestern branch of the St. John was not entirely discovered until the surveys under the Treaty of Ghent. The whole history of the subject is in fact opposed to any such suggestion of modern date, as that of saving out the whole river St. John; and plainly shows that the whole plan of Great Britain, in all the great acts of 1763, 1774, and 1783, to which she was successively party, was governed by the just, general prevailing idea of the geography of the country, from the earliest period to the present. It shows, beyond a shadow of doubt, that it was simply intended, from first to last, to mark off the mere margin of the Saint Lawrence by the head line of those rapid streams, which fell into that river, from the great class of those which flowed to the ocean in all other directions. The broad scope and design of the Proclamation of 1763, in its whole direction across the continent, throughout its grand division of waters flowing off

from the west and northwest, and away also from the St. Lawrence, into the Atlantic, demonstrate such an original principle of demarcation. And this is again sustained by the general, decided character of superior elevation, which belongs to that upper region of country, from above the head of the Connecticut to that of the Bay des Chaleurs. This elevation is much beyond any height, that interrupts the declivity thence to the ocean, adown the banks of the St. John; and the descent, on the other side, to the tide waters of the St. Lawrence, there naturally becomes more sheer and abrupt. Indeed it is understood to be well ascertained, that where the land comes to a crest, whence it slopes and sends its streams downward to the St. Lawrence, it is the highest any where on the whole meridian line from the St. Croix.

Let it be remarked, that every real attempt, in whatever manner, to withdraw the rivers entering first into the Bays of Fundy and Chaleurs, before they fall into the broad Atlantic Ocean from the proper field of the treaty description—or, what is just the same thing, to assign them, in their whole westerly extent, to the British dominions, without regard to the governing lines, or attending to the specific directions given by the treaty, is only applying a sponge to that instrument. It is a process, in other words, to obliterate every trace of it, so far as regards that portion of the boundary of the United States, which was first begun at, and which was fixed as the starting point, or corner stone, in order, as it was emphatically expressed, "to avoid all future disputes;" and it leaves the terms, carefully employed in the treaty for that purpose, almost entirely destitute of signification. The construction to this effect, which has been occasionally resorted to by Great Britain, (if that can be called one, which is rather, the work of destruction,) would leave us in fact, without any national boundary on the Northeast, from the head of the Penobscot and Kenebec to the source of the St. Croix whatever. Incredible as it may seem, such has been the assumption, and such is seen to be the consquence.

The present views of Great Britain on this subject, it is needless to say, are very wide from those which prevailed in 1783. They arise from considerations of entirely an after kind from those which governed then. Views and considerations, which might be urged to much effect in discussing a line to be fixed by treaty, cannot decide the interpretation of one already made. Yet the question of an actual intention,

which existed over fifty years ago, is sought to be resolved into the political convenience of the present day. This is grasping at a very different object from what was originally designed.

In looking at the diplomatic correspondence, recently communicated by the British Government to Parliament, it is remarkable to observe the strain of regret, which prevails on the part of its official agents in this country, that the river St. Croix was finally fixed in the Bay of Fundy. And that result is, very singularly, lamented, as having been produced by the provision of the treaty of 1794; as though that had not been the precise limitation of the Treaty of 1783, of which this lingering wish to be rid shows the original importance. This result (sufficiently unpropitious, it was thought, at the time, in its actual determination, to the United States,) was undoubtedly intended to be remedied, in some manner, by taking possession of Penobscot in 1814; as the British Government was then urgently advised to seize the opportunity afforded to obtain a revision of the boundary, acknowledged to be established by the Treaty; particularly, so as to secure a direct communication between Quebec and Halifax. Although the project, in that form, was obliged to be abandoned, the plan itself was not relinquished, but the idea has been revived in a variety of expedients. Some new inference, finally, seems to be drawn, even at this late day, from the supposed error of the Treaty of 1783, in confining the St. Croix to the Bay of Fundy, (confirmed, as it is thus complained of, under that of 1794), the effect of which would cut off that portion of the territory of the State, which lies beyond the waters of the Penobscot. To make any further remark upon this topic would be to enter upon the useless and forgotten controversy respecting the ancient limits of Acadia, (which the French originally claimed to extend at least to the Penobscot) existing near a century ago. So far as the after designs of Great Britain upon this point have been prospered by the events of negotiation since the Treaty of Ghent, the condition of peace, in respect of Maine, can hardly be said to have been better, than that of war.

In one word, the extraordinary supposition has been adopted that this whole provision of the Treaty of 1783, respecting our boundary, was founded in universal error.

It is striking to perceive to what extent the fallacy, just referred to, in relation to the original St. Croix, pervades the correspondence communicated to Parliament. I have taken

occasion to allude to that correspondence more freely, and to some points, to which it relates, more particularly, on account of the importance it assigns to them, in a manner, which might not otherwise seem to have been called for; and because it also contains disclosures, and throws light upon passages in relation to the former negotiation, commenced in 1832, with which the people were unacquainted, and in which the State would be interested. If I forbear to advert to them more expressly, or to dwell upon them further, it will be from motives, which I hope will not be mistaken, and from considerations, which, I am sure, will not be disapproved. One remark, however, may be allowed. Let it suffice to say, that the contents of this correspondence, which I have had the opportunity of seeing, are of a nature to vindicate the patriotic solicitude, and statesmanlike sagacity, of those reiterated calls, that were made in Congress in 1834, and again in 1836, which ended, it may be observed, in unfolding the negotiation then on foot, and ultimately in the reference of the matter to Maine, and in the recent Resolutions of Congress.

The bold design which has been betrayed, to annul that portion of the Treaty of 1783, in relation to the boundary, is but a mere consequence of the doctrines and purposes developed at Ghent, and demands to be resisted with all the energy that can be aroused in the breasts of the American People. It is subversive, I must again repeat, of the very principle of Independence, and leaves us reduced to a state of colonial vassalage. Such a badge of degradation is not to be endured. This is a condition to which the country will never call upon Maine to submit. It is founded on a pretension so utterly baseless and unsound, one so monstrous and humiliating, so totally revolting and prostrating to every feeling of national character, that she is obliged to repel it at every peril. A question of this kind is certainly calculated to expose the virtue, as well as the patience, of a community claiming to be free, to the severest test. And will the American People, after the opinion which has been pronounced by their Representatives in favor of the right of Maine, and their decisive sentence of condemnation upon the adverse claim, require of her to pause in such a vigorous and prudent course of proceeding, under her own constitutional authority, as is at once warranted, and befitting, in the actual structure of the Federal Government? What prospect is there of this harrassing question being brought to a close, without some active effort of her own? How little has it hitherto been prospered

by negotiation? What inducement can be drawn from the merely experimental arrangement which is proposed between the two governments, to dispense with the importance of any further interest, or exertion on her part? How long is this anxious and vexatious question to be adjourned? How long is the most precious attribute of a State, its perfect right of sovereignty over its own soil, its power of protecting its own citizens, to be held in abeyance? Maine might well be expected to put her own shoulder to the wheel, while she would claim to invoke the higher energy of the general government.

In the last place, it may be observed that the course which was taken in Congress, and especially the discussion and report in the Senate, together with the joint declaration, in which it resulted, would have, it was augured, the two-fold effect, of spreading information on the subject widely, and calling attention to it forcibly, both at home and abroad.

It was deemed highly desirable, first, that the public mind in this country should be thoroughly enlightened, and made up, in regard to the merits of the controversy; and that it should be perfectly convinced, above all, upon the cardinal points of truth, justice, and integrity, so essentially belonging to the final assertion of an absolute right.

Secondly, it was conceived, that this might also serve as a moral appeal to the conscience and magnanimity of Great Britain herself, from whom we do not feel more surely, that we have ourselves descended, and that we are alike offspring of the same British and Saxon ancestry, than that we share by the clear and equal inheritance of blood, an invincible impatience of wrong and an indomitable determination to maintain our right.

An appeal of this nature, it was thought, might not be without effect. It was one that would go forth to the World. It would be conveyed to all christendom. It would speak even to after ages, that should demand an account of the origin and causes of this controversy. Neither in those, who uttered their voices on this subject, nor in the tone of that report which spoke the sense of the whole, was there any failure to insist on the sublime maxims of morality, nor any omission to invoke the benign principles of peace. These sentiments lie deep in the breasts of this community; while they are firmly impressed with the profound belief of the righteousness of their cause. To their minds it is indelibly stamped with the visible signatures of eternal truth. They are resolved, therefore, to stand on their ancient ways, and to adhere to the old landmarks, which their

fathers have set. And well may those, to whose hands the great trusts of human affairs are committed, and by whose counsels the destinies of nations are gnided, look, with a discerning spirit, into the merits and aspects of this grave question. Let them weigh its vast responsibilities; and consider wisely the importance of the steps they are to take, before their feet stumble on the dark mountains.

In concluding, and submitting this Report, which has been drawn to an unintended length, to your favorable consideration and acceptance, it can become me only to refer to the portion of good fortune, more than merit, which may have attended my humble endeavors to be instrumental in carrying out the purposes of my commission with all the faithfulness in my power. If all has not been done that was desired, I trust that the people of this State will feel satisfied that something has been accomcomplished. And I hope, that you will find, that your instructions have been fulfilled, to the spirit, if not to the letter. I have no doubt, that the action of Congress has formed a new era upon this question. I cannot but consider, that the State is indebted, through yourself, to the decided course of its constituted authorities for any success that has arisen, since the proceeding in Council. And I have not sought to disguise the gratification of having thus far had the privilege to complete, under your directions, after so long an interval, the service, which I commenced, as an agent, under the auspices of your lamented predecessor, Governor Lincoln.

I have the honor to be,
With great respect and truth,
Your obedient servant,
CHARLES S. DAVEIS.

Hon. Edward Kent, Governor of Maine.

No. 17.

PROVINCE OF NEW BRUNSWICK.

To ——— WHIPPLE, Esq. Surveyor of Lands of the State of Maine.

Whereas, the operations in which you and your party are engaged, in surveying lands and locating settlers on this river, under the authority of the State of Maine, appear to me to be a violation of the existing arrangements subsisting between the British Government and that of the United States; and whereas, by my instructions it is made my duty to protest against any act implying sovereignty or jurisdiction on the part of any Government or State, or of the citizens or subjects of any Government or State, exercised within the territory in dispute between the two Governments of Great Britain and the United States, and known by the name of the disputed territory, until the right to that territory shall have been decided by negotiation between the two Governments:—I do hereby accordingly, in my capacity of Warden of the said Territory, duly appointed by the British Government, in pursuance of my duty on behalf of Her Majesty, protest and warn you forthwith to desist from proceeding further with your proceedings.

Restook River, June 27th, 1838,

(Signed) JAMES MACLAUGHLAN,
Warden of the Disputed Territory.

---

No. 18.

STATE OF MAINE.

RESTOOK RIVER, June 28, 1838.

To JAMES MACLAUGHLAN, Esq.

SIR:—I have received your communication dated 27th, of the present month, wherein you claim to act as Warden of the Disputed Territory, protesting, in behalf of Great Britain, against my proceeding any further in surveying lands and locating settlers on this river. In answer to which I would beg leave to state, that I act under the authority and by the command of the Government of the State of Maine, so far as the surveying of the land is concerned; as to the location of settlers, I have no further agency than to note the claims of different individuals to certain tracts, and return the same to the Land Office at Bangor. Thus far I consider my oath of office and instructions from Government require me to act; and in accordance with that belief. I shall act to the best of my judgment and ability,—acknowledging no government or power but that of the State under which I have the honor of acting, sufficient to control my duty or countermand the orders which govern my present movements.

Yours, S. S. WHIPPLE,
Surveyor General of the State of Maine.

No. 19.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT, }
September 20, 1838. }

*To John G. Deane, Milford P. Norton and James Irish Esquires:*

You, having been appointed and commissioned by the Governor, Commissioners for ascertaining, running and locating the North Eastern Boundary Line of this State, will proceed to the execution of that duty forthwith. You will employ a suitable number of competent men as assistants, who will at all times act under your direction. You will understand, in reference to your own compensation, and that of the whole party, that as no specific appropriation was made by the Legislature, you must depend for payment upon the will and determination of the next Legislature, and all contracts for services will be made upon this basis and understanding. You will purchase at the expense of the State all necessary utensils and sufficient provisions for the expedition, and cause them to be transported to a suitable place of depot on or near the boundary line.

After all preliminary arrangements are made, you will proceed in the first place to the North Eastern Boundary of the State of Maine, according to the Treaty of 1783. You will then ascertain how far any line of exploration, or otherwise has been traced and marked towards the North West Angle of Nova Scotia, as claimed by the United States and the State of Maine, and you will follow the same, examining the country—the streams—ascertaining elevations—and whether the said line is, according to your observations, a due north line—and marking all variations. You will endeavor to move on a due north line towards the height of land where is to be found the North West Angle of Nova Scotia—making careful observations of all facts relative to the character of the country, and bearing upon the question unsettled between the two Governments. When you have reached the Highlands, or height of land, which divides those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean—you will explore and examine the said Northern line of boundary, as far as practicable, in the manner and for the purposes before mentioned, and so as to be certain that you pass over the spot where a minutely accurate and scientific, survey of the due North Line, will fix the said North West Angle of Nova Scotia. In short, the leading object of the exploration will be to ascertain, by actual examination upon the face of the earth, the practicability of running and locating a due north line according to the treaty and our claim, and to furnish a topographical report of the country, particularly about the North West Angle of Nova Scotia. You

will, as far as practicable, trace the streams from their source to their mouth, and ascertain the course of the same. You will note all evidences of timber having been taken off the disputed territory, and when and where carried, and by whom cut, and all roads made or making.

You will make a report to the Governor, as soon as practicable, of your doings, with such sketches and plans as you may deem important in illustrating your report. If, which is not apprehended, you should be interrupted or resisted in the execution of the duty committed to you, you will yield to nothing but a superior force, you will proceed until you are stopped by actual interruption, and you will exercise your own judgment upon this matter, having in view the honor and rights of Maine. You will make no concessions or agreements to or with any other persons or Government, or officers, as to the future course of the State or yourselves, as Commissioners. You will, as far as practicable, keep within the limits of our own State, and carefully avoid any tresspass upon the unquestionable territory of New Brunswick.

You will remain upon this duty until it is fully completed, or the severity of the weather compels you to return. You will then wait for further orders in reference to a final survey, and location, and marking of the whole line from the monument to the North West Angle of Nova Scotia.

EDWARD KENT,
Governor of the State of Maine.

---

## NO. 20.

## STATE OF MAINE.

EXECUTIVE DEPARTMENT,
AUGUSTA, SEPT. 25, 1838.

*To His Excellency, Major General*
*Sir John Harvey, Lt. Governor*
*of the Province of N. Brunswick.*

SIR:—I have the honor to inclose to your Excellency a copy of a Resolve, passed by the Legislature of the State of Maine, and approved by the Governor March 23, 1838, and also to inform you, that the contingencies therein named not having occurred, and the commission referred to not having been established, it became my imperative duty, after the first day of September instant, to appoint suitable commissioners and surveyors for the purposes specified in said Resolves; and that I have appointed and commissioned John G. Deane, Milford P. Norton and James Irish, Esqs. as Commissioners and William P. Parrott, Surveyor, under said Resolve.

I have also the honor to inform your Excellency, that I have

instructed the said commissioners and Surveyor to proceed to the Eastern Boundary Line of this State, and to explore and examine the country bordering on the same, and to ascertain how far any line of exploration, or otherwise, has been traced and marked, towards the North West Angle of Nova Scotia, as claimed by Maine and the United States; and to follow the same, examining the face of the country, and the streams, and ascertaining the elevations, and to move on a due north line towards the height of land, where is to be found the spot, which we claim as the North West Angle of Nova Scotia, making careful observations of all facts relative to the character of the country and bearing upon the question pending between the two Governments; and also in like manner tracing and examining the northern line along the highlands, which divide the rivers falling into the St. Lawrence from those falling into the Atlantic Ocean.

In short, the object of the expedition is to ascertain, by examination upon the face of the earth, the actual facts, and the practicability of running and locating a due north line, according to our construction of the treaty, and to obtain a topographical report of the country, particularly about the north west angle of Nova Scotia. The sole design of this note is to give to your Excellency the facts relative to the nature and object of the expedition under present instructions, that you may understand the state of the exact matter, knowing that there are many vague rumors and unfounded reports on the subject, tending to mislead and deceive.

With great respect,
I have the honor to be
Your most ob't servant,
EDWARD KENT.
Governor of the State of Maine.

---

No. 21.

GOVERNMENT HOUSE,
Frederickton, N. B., October 1st, 1838.

SIR:—I have the honor to acknowledge the receipt, by the hands of J. S. Little Esq., of your Excellency's Communication of the 25th ultimo, enclosing the Copy of a "Resolve" of the Legislature of the State of Maine, and informing me that you have appointed Commissioners and Surveyors under that Resolve and have furnished them with Instructions of which your Excellency has been pleased to detail to me the substance.

After having seen the Resolutions adopted by the Congress of the United States on the 4th of July last, I confess I had not ex-

pected any further action on the part of the State of Maine, in reference to a question which is now in discussion betwixt the two General Governments, with, as I firmly believe, a sincere desire to bring it to an early and satisfactory close.

Of the courtesy of your Excellency's communication I beg you to believe that I am perfectly sensible, and when, in reply thereto, I inform your Excellency that I shall not deem it necessary to interfere with a mission whose operations shall be confined to the purpose stated in your Excellency's letter, namely that of merely obtaining topographical information, it is incumbent upon me to add that it will be my imperative duty not to suffer any infringement of the possession and jurisdiction which Great Britain holds in the Territory in dispute, until the question of Right is decided.

With great respect,
I have the honor to be,
Your Excellency's
Most obedient servant,
J. HARVEY,
*Maj. Gen., Lt. Gov. of H. B. Majesty's Province of N. Brunswick.*

His Excellency, Governor Kent, &c., &c., &c.

No. 22.

# THE COMMISSIONERS' REPORT.

*To EDWARD KENT, Esq.*
Governor of the State of Maine.

The Commissioners appointed and commissioned on the 3d day of Sept. last, under the resolve of the Legislature approved March 23, 1838, to ascertain, run and locate the north-eastern boundary line of the State, met at the Bangor House in Bangor on the 13th day of said September, for the purpose of organizing and conferring with the Governor and with each other upon the best and most practicable mode of accomplishing the objects of said resolve, and fulfilling the duties required of them by their appointment; and after a full and deliberate examination of the various considerations which might properly bear upon the question, they were led to concur with him in the opinion, that the only measure that could be attempted the present season, with any reasonable prospect of success, was an examination and exploration of the region round about the Northwest Angle of Nova Scotia, and a review of such part of the line of exploration run by the surveyors under the treaty of Ghent in 1817 and 18, as they might find time to examine as a preliminary measure to the commencement of the running and locating a meridian line from the monument.

One consideration, among others, which had great weight in leading to this course, was the fact, that the officers, agents and diplomatists of the British Government, had so long, so positively and pertinaciously asserted and maintained that no highlands could be found dividing the waters running into the River St. Lawrence from those which fall into the Atlantic Ocean, and answering in character and location to the highlands described and undertaken to be established as the boundary in the definitive treaty of peace—that not merely high officers of the Government, but many of our own people were strongly inclined to give credit to the assertion. It is true that a little reflection upon the subject might have seemed sufficient to convince any man of common sense, unless the laws of nature and of gravitation were reversed, that these representations were entirely unfounded in truth, for unless water in that region did

not run down hill—or that it ran indiscriminately from the River St. Lawrence to the Atlantic Ocean, and from the Atlantic Ocean to the St. Lawrence, or unless the whole boundary line is in the bed of a lake or in an interminable morass, it must necessarily and inevitably follow that the lands which divide and separate these waters and turn them on their course in opposite directions, to remote and distant seas, are highlands in the sense intended by the treaty, whether you compare them with the level of the seas to which their waters flow, or the more immediate intervening lands through which they seek their passage. But it is nevertheless still further true, that even our own government has seemed recently to entertain some doubts of the existence of these highlands in the direction of a due north line from the monument. It was believed therefore to be exceedingly important to set them right on this point, and to test the truth or falsehood of the statements of the British authorities by an actual reconnoisance of the region in dispute.

The exploring line had, on former occasions, in the excursions of the Commissioners individually in the forest, in pursuing their own business, been seen and examined in various places, between the monument and the point where it crosses the river St. John; and therefore it did not seem to be necessary to do much on that line, unless it could be accurately run, so that no future survey would show any error in it. The State had not the proper instruments to run the true meridian or due north line, and it was ascertained that they could not be obtained and tested, as to their accuracy, in time to do any thing before the weather would prevent the survey this season.

It was concluded to make the chief explorations and surveys to the northward of the River St. John, and to, and about the Northwest Angle of Nova Scotia as described in the treaty of 1783, and thence westwardly on the highlands which divide the rivers emptying themselves into the river St. Lawrence from those which fall into the Atlantic Ocean; and when the weather should prevent operations in that quarter, to examine the line south to the monument. Such instruments as were necessary for taking altitudes and levels, for such surveys as were necessary to be made this season, could be procured without great delay.

In pursuance of these views and of the instructions of the Governor, whose duty it was made by the Resolves to cause them to be carried into effect, arrangements were made

for procuring the necessary instruments, provisions and men for the exploration and survey this season. When they were procured, most of the men went with the provisions up the Penobscot and Sebois Rivers, from whence they carried over into the Arostook River and descended it to the Little Machias River. Two of the Commissioners and Captain Parrott, the Surveyor, went by the way of the Aroostook River, and the other Commissioner by the way of Moose Head Lake and the Penobscot and Aliguash Rivers. From the Aroostook River one Commissioner and seven of the men went by the way of the Little Machias and Fish Rivers, and one Commissioner and the Surveyor descended the Aroostook, all intending to meet at the mouth of the Grand River, the first river falling into the River St. John from the north and westward of the exploring line, and twelve or thirteen miles from it.

The party which arrived first was to ascend the Grand river, without delay, and the others were to follow in succession as they arrived. The several parties arrived at different times. The first one ascended Grand river, leaving marks and directions at various places, by the river, at the Portages and on the line, advising the others of the best mode of following. The Commissioners, Surveyor and laborers, with three Indians, in all fifteen, arrived at the highlands near Metis river, a river emptying into the river St. Lawrence. The whole were there divided into three parties. One party explored the highlands and streams in various directions, another party explored and surveyed westwardly on the highlands dividing the waters, &c., and the third party, under the direction of Wm. P. Parrott, the Surveyor appointed by the Governor, took various observations to ascertain the longitude of the exploring line, and also to determine the magnetic variation, and made a vertical survey south on the line, to ascertain the elevation.

The land at the northern part of the exploring line, and in the region round about it, is found to be sufficiently high to divide the rivers emptying themselves into the river St. Lawrence from those which fall into the Atlantic Ocean. From the Metis, where it is intersected by the exploring line (called by the Surveyors under the fifth article of the treaty of Ghent, Beaver Stream,) the land rises in about one mile south of it on the exploring line, by the report and plan of William P. Parrot, the Surveyor, which is herewith communicated, more than three hundred feet. The land in this region is very high, in large swells, ridges and mountains. Between the Metis and

Katawamkedgewic, or the Great Forks of the Ristigouche, is the highest land found on the whole exploring line north of the monument. Such was the estimation of the Surveyors under the fifth article of the treaty of Ghent, in which estimation we fully agree.

The Metis, by the measurement of the Surveyor, as it appears in his report and profile, is five hundred and thirty one feet above the level of the Katawamkedgwic or Great Forks where the line crosses it, and in a distance of about fourteen and an half miles. Within about one mile South from the Metis, on the exploring line, the land rises to an elevation of three hundred and thirty feet above its level, and this is the spot where the rivers are divided and where the Northwest Angle of Nova Scotia is to be found. The line south of the Katawamkedgewic, or Great Forks, to the river Ristigouche, passes most of the way, over high, broken and mountainous ridges, a little more depressed than those north of the Katawamkedgewic, and the depression increases, as the Ristigouche is approached.

South of the river Ristigouche, and between it and the streams emptying into the river St. John, is Sugar Mountain, or more properly Sugar Mountain Ridge—the line passes over the summit of it. It is a large swell, and a tract of fine land, free from stones and covered with a heavy growth of birch and rock maple, with a little mixture of fir and spruce. It is less elevated than the land before described to the north of the Ristigouche, and the Katawamkedgewic, to the river Metis. According to the principal British Surveyor under the fifth article of the treaty of Ghent in 1817, in Col. Bouchette's Survey, vertical section, and profile of the country from the monument ninety nine miles north, Sugar Mountain is shown to be the highest land upon or near the line, in that distance from the monument; which is undoubtedly the fact. They also exhibit a continual rise in the base of the whole country, as indicated by the level of the streams, and the land over which the line passes, to the waters of the Ristigouche. It shows the Meduxnakeag to be higher than the monument, and the Presq' Isle, the DeChute, Aroostook, St. John and Grand Rivers, all rising successively one higher than the other above the level of the sea—and the Wagansis, at the termination of the ninety-nine miles, is higher above the level of the sea than any river south of it. A copy of Col. Bouchette's survey and profile, is for the purpose of illustration annexed to our map.

William F. Odell, the British Surveyor of the continuation

of the exploring line from Sugar Mountain north, in 1818, says, "the general face of the country may be considered as "increasing moderately in elevation northward from the Risti- "gouche." It does so, as has been before shown. The levels of the rivers above the sea also increase. As far as the level of the Ristigouche and Katawamkedgwic can be ascertained from comparative velocity, depth and width of the streams, formation of the bottom and sides, it appears, that the Katawamkedgwic is as high, and probably higher, from the level of the sea, than the Ristigouche or Wagansis, where the line crosses them. Admitting the different streams to be of the same height above the level of the sea, the Metis or Beaver Pond, is five hundred and thirty one feet higher—a base line from which drawn South, will show a general inclined plane descending from thence to the monument at the source of the river St. Croix, and that the general elevation of the highlands will be between two and three thousand feet, also, above the level of the sea. Here is the place where the treaty of 1783 describes the Northwest Angle of Nova Scotia to be.

From the north west angle before described, westwardly between the rivers Metis and Rimousky, emptying themselves into the river St. Lawrence, and the Katawamkedgwic, Green and Tuledi rivers, falling through channels of various names into the Atlantic Ocean, the base of the country rises; so do the highlands dividing the rivers, &c.; and so do the prominent points of land or mountains, above the level of the sea. The land must rise or at least cannot be depressed to the head of the river St. John and its other branches, as they are longer streams with rapid currents.

In some instances streams or rivers running in opposite directions have their sources on high and elevated land, which is wet, and filled with springs, and may very properly be called swamps—but in all such cases there is a dividing point, from whence the waters run in different directions, and discharge themselves into remote parts of the sea. The source of the Saco river and the Amonusuck, a branch of the river Connecticut, is a remarkable instance among others; they rise in the same swamp, and almost in the same pond, at an elevation of twenty five hundred or three thousand feet above the level of the sea. No doubt there may be found on the highlands dividing the waters &c. on the boundary line, swamps which drain each way. The most remarkable instance of the sort is at the source of the St. John, north branch of the Penobscot and Met-

jarmette, which discharges itself through the De Loup and Chaudiere into the river St Lawrence. The aforesaid rivers have their sources in the same swamp, within the compass of half a mile of each other, and in one instance, at least, streams run in opposite directions which are only six rods apart. The respective streams from this place, as well as from some others in this region, run for some distance through swamps and land but little elevated above them. The British here, have no difficulty in finding the highlands dividing the waters, &c. according to the treaty of 1783, as a part of the boundary. They are the highlands dividing the rivers, &c. and were such the case all the way on the line to the Northwest angle of Nova Scotia, it would be the line described, meant and intended by the treaty of 1783. All the elevation necessary on the line is, only one barely sufficient to divide the rivers, &c., not hills nor mountain ranges. The treaty says not a syllable about mountains, mountain ranges, or even hills.

The course of the Metis river by the North West angle, is northwestwardly and pursues that general course, from the best authorities, to the river St. Lawrence. The land on the southwestwardly side rises in a northwestwardly direction, and many streams are found running rapidly from it on the one hand into the Metis and St. Lawrence, and on the other into the Katawamkedgwic river and Atlantic Ocean. On the northeasterly side of the Metis a range of high and mountainous land is seen extending in a N. N. W. and S. S. E. direction for several miles. The whole region, as has been before shown, is very high and elevated above the level of the sea, and not only that, it is very much elevated above the streams which run through it. We also find by our exploration and examination, that there is no uncertainty or difficulty in tracing and locating the line from the North West angle of Nova Scotia westwardly along distinct highlands which divide the rivers &c. as described in the treaty of 1783.

The soil in the region round about the North West angle of Nova Scotia and on the line, appears to be of excellent quality, covered with a heavy growth of fir, spruce, yellow, black and white birch, mountain ash, cherry trees and a very few pines. In some places the hard wood predominates, but more generally the ever-green, particularly in the vallies. The soil is free from stones, of any considerable size, and rocks and ledges, none appearing above the surface, and where trees have been turned up by the wind, the soil appears to be of a reddish color, in which are intermixed fragments of reddish sand stone and slate.

The land on the river St. John and its tributaries is also of excellent quality; the soil is generally of a deep rich loam and free from stones; the ridges or swells of land are covered with a heavy growth of timber. But few inhabitants are settled upon it, perhaps three thousand or thereabouts, and where they cultivate it, their labor is abundantly rewarded, in the large crops of wheat, barley, buckwheat, oats, potatoes, hay, &c. Its great freedom from stones renders the cultivation easy. Pine timber is abundant on the river St. John and its branches, all of which are navigable for the transportation of supplies and the driving of logs nearly to their sources, and there is also an abundance of water power for mills. The resources of the country are great; whether its soil or its timber be considered, no equal portion of the State bears any comparison to it, and more than one half of the whole pine timber in the State is upon it.

It may be worthy of a passing remark, that the Southeasterly lake at the head of the Alaguash river is higher, probably thirty feet, than a lake opposite called Webster's pond, at the head of one of the branches of the east branch of Penobscot river. The distance from lake to lake, is half a mile, the land is low, and to every appearance a canal may be cut across at a small expense. If a dam were to be built at the outlet of the Bamchenungemook lake, and a canal cut, the timber, from a great tract, which abounds in excellent pine timber, may be sent down the Penobscot river.

The Metis river limited the explorations to the Northward, and when the explorations in that region were interrupted by the weather, and could not be continued for the want of provisions, the exploration was continued South towards the monument, examining and ascertaining the course the exploring line was run, and the magnetic variation and longitude.

The exploring line run in 1817 and 1818, under the 5th article of the Treaty of Ghent, is well enough run and marked for the purpose for which it was intended, not being intended to be the permanent line. The line is a succession of slight curves, not varying much from a true meridian. The Surveyors, in 1817 and 1818, ascertained the magnetic variation at the Monument, the De Chute, Aroostook, Ristigouche, Mempticook or Little Forks, Katawamkedgwick or Great Forks, and at the Metis river. They began their survey with about 14° variation, and ended with about 17° 15′. The westerly variation

has increased, and is now, at the northwest angle, 19° 12′ nearly.

On the map accompanying this Report, the Commissioners have endeavored to give a true delineation of the features of the country, its rivers and mountains, as far as they could from their own explorations, and other explorations and surveys. The river St. John and its principal branches are laid down from explorations and surveys; the Fish, Aroostook and Penobscot rivers, and their branches, from the surveys as far as they have been made by Massachusetts, and Maine and Massachusetts. The heads of some of the westerly branches of the Fish and Aroostook rivers, and the branches of the Aliguash, are taken from the information given by Indians and others; so are some of the small and unimportant streams in other parts. The shores of the river St. Lawrence, and the rivers emptying into it, are taken from Col. Bouchette's map, published in 1815; so are the mountains and other features of the country, excepting only the river Etchemens and river du Sud, which were taken from Wm. Henderson's map, who says he laid them down from actual surveys.

The lines are described on the map, according to the British Proclamation of 1763, the Act of Parliament of 1774, and the commissions to the Governor of the Province of Quebec and Lower Canada; also the west line of the Province of Nova Scotia, from 1763 until the Province of New Brunswick was separated from it, and of the Province of New Brunswick to the present time, as the line is described in all the commissions to the Governors, also according to the Treaty of 1783, all showing the lines in the same place, so far as the State of Maine extends. These repeated and reiterated facts show that the Treaty of 1783 only adopted the lines previously established and well understood by the British; they also show that the British equally well know at this time where the lines thus established are, and must be applied to the surface of the earth. The only difference in the lines of the Proclamation, Act of Parliament, and Treaty, is about the heads of Connecticut river, and west of it, which are delineated upon the map as far west as it extends.

It is difficult to imagine a more certain and accurate description of boundaries than that contained in the Treaty of 1783, or which, with more certainty, can be applied on the earth's surface. Its monuments are as fixed and certain as

the pole and the everlasting hills, so long as the laws of motion and gravitation shall continue.

It may not be unimportant to inquire what the British claim is, and what the boundaries of their Provinces are, so far as they are connected with this question. It is well known, as an historical fact, that the British and French long contended for empire in America—each endeavoring to expel the other. Oct. 7, 1691, by the charter of William and Mary, the Province of Massachusetts Bay contained what is now the State of Maine and the Provinces of Nova Scotia and New Brunswick, with the part of Canada lying between Maine and New Brunswick on the one hand, and the river St. Lawrence on the other. In 1719, the Province of Nova Scotia had a separate Governor, without any specified limits, further than could be gathered from the description in the commission of "Nova Scotia, or Acadie, in America." Thus the Provinces continued, until the peace which ended the war of 1756, and which put an end to the rights and jurisdiction of the French.

The Royal Proclamation of Oct. 7th, 1763, establishes the Government of Quebec, and so much of the southern boundary of it as is connected with the present controversy is: "whence the said line crossing the river St. Lawrence and "the Lake Champlain in forty-five degrees of north latitude "*passes along the highlands which divide the rivers that emp-*"*ty themselves into the said river St. Lawrence from those which* "*fall into the sea* and also along the north coast of the Bay "des Chaleurs and the coast of the Gulf of St. Lawrence, "to Cape Rosieres and from thence crossing the mouth of "the river St. Lawrence."

Gov. James Murray was the first Governor of the Province of Quebec, and his commission was dated Nov. 21st, 1763, and contains the same description of boundary. In the commission to Gov. Montague Wilmot, dated Nov. 21st, 1763, appointing him Governor of the Province of Nova Scotia, the north and west boundaries are thus described: "To the north-"ward our said Province shall be bounded by the southern "boundary of our Province of Quebec as far as the western "extremity of the Bay des Chaleurs." *To the westward*, "it "shall be bounded by a line drawn from Cape Sable across the "entrance of the Bay of Fundy to the mouth of the river "St. Croix by said river to its source and by a line drawn "due north from thence *to the southern boundary of our colony*

"*of Quebec.*" It follows that all the territory which was not taken by the Proclamation of 1763, and changed by the commission to Gov. Wilmot, was still the Province of Massachusetts Bay, and therefore its northeastern boundary was the river St. Croix, and a line drawn due north from its source to the south line of the Province of Quebec, and thence westwardly along the highlands which divide the rivers emptying themselves into the river St. Lawrence from those which fall into the sea, as far westward as the Province of Massachusetts Bay extended.

The same boundary as was described in the Proclamation of 1763, and in the commission to Gov. James Murray, was continued in the commissions to the succeeding Governors of the Province of Quebec, until after the passing of an Act by the British Parliament, entitled "An Act for making more effectual provision for the Government of the Province of Quebec, in North America," passed in 1774. The Act aforesaid bounds the Province of Quebec, "*on the south* by a line from the Bay "of Chaleurs, *along the highlands which divide the rivers that* "*empty themselves into the river St. Lawrence from those* "*which fall into the sea*, to a point in forty-five degrees of "northern latitude on the eastern bank of the river Connecti- "cut, keeping the same latitude directly west, through Lake "Champlain, until, in the same latitude, it meets the river St. "Lawrence." The lines described by the Proclamation and Act of Parliament differ only about the head of Connecticut river, and from Connecticut river to Lake Champlain.

In the commission to Gov. Frederick Haldimand, of the Province of Quebec, dated Sept. 18th, 1777, the same boundary is precisely and literally recited. The commissions to Gov. Campbell in 1765, to Gov. Legge in 1773, and to Gov. Parr in 1782, successive Governors of the Province of Nova Scotia, all contain the following boundaries: "Bounded on *the* "*westward* by a line drawn from Cape Sable across the en- "trance of the Bay of Fundy to the mouth of the river St. "Croix, by said river to its source, and *by a line drawn due* "*north from thence to the southern boundary of our Province* "*of Quebec*; to the NORTHWARD by the said boundary, as far "as the western extremity of the Bay des Chaleurs; to the "eastward by the said Bay and the Gulf of St. Lawrence," &c. Such were the boundaries of the respective British Provinces up to and at the time of the war of the revolution, made, and

recited again and again, by the King and Council, and Parliament, for a period of nearly twenty years.

The definitive treaty of Sept 3d, 1783, between the United States and Great Britain, declares and describes the boundaries as follows: "*And that all disputes which might arise in* "*future, on the subject of the boundaries of the United States,* "*may be prevented*, it is hereby agreed and declared, that the "following are and shall be their boundaries, viz: From the "northwest angle of Nova Scotia, viz. that angle which is "formed by a line drawn due north from the source of the St. "Croix river to the highlands; along the said highlands which "divide the rivers that empty themselves into the river St. "Lawrence from those which fall into the Atlantic Ocean, to "the northwesternmost head of Connecticut river; thence "down along the middle of that river to the forty-fifth degree "of north latitude; from thence by a line due west on said "latitude, until it strikes the river Iroquois or Cataraquy." "*East* by a line to be drawn along the middle of the river St. "Croix, from its mouth in the Bay of Fundy to its source, "and from its source directly north to the aforesaid highlands "which divide the rivers that fall into the Atlantic Ocean from "those which fall into the river St. Lawrence."

By a comparison, it will be readily seen that the boundaries differ in only one place from the boundaries which were established by the British, to wit, at the head of Connecticut river. The commission to Gov. Carleton, dated 22d April, 1786, a short period after the definitive treaty of peace, bounds his government "South by a line from the Bay of Chaleurs, *along* "*the highlands which divide the rivers that empty themselves* "*into the river St. Lawrence from those which fall into the* "*Atlantic Ocean*, to the northwesternmost head of Connecti-"cut river; thence down along the middle of that river to the "forty-fifth degree of north latitude; from thence due west on "said latitude, until it strikes the river Iroquois or Catara-"quy." Here it seems the British changed the line in their commissions to Governors, as they had done previously, after the alteration of the line by the Act of Parliament of 1774. A comparison also shows the exact coincidence of this line with the line described in the treaty of 1783. The successive Governors of the Province have been limited by the same line to the present time—although the Province of Quebec was in 1791 divided into two Provinces, called in the Act of division Upper and Lower Canada.

After dividing the Province of Nova Scotia and establishing the Province of New Brunswick out of it, the Commission to Gov. Carleton bounds his government "Westward by "the mouth of the river St. Croix by said river to its source, "and by a line drawn due north from thence to the southern "boundary of our province of Quebec, to the Northward by said "boundary as far as the western extremity of the Bay des Cha-"leurs, to the eastward by said Bay and the Gulph of St. Law-"rence to the Bay called Bay Verte," &c. Such have been the boundaries in the Governors' Commissions of the Province from that to the present time; even this year the Commission to the Earl of Durham, making him Captain General and Governor in Chief over the Province of New Brunswick in America bounds his Government westward "by the mouth of "the river St. Croix, by said river to its source and by a line "drawn due north from thence to the Southern boundary of "our Province of Quebec, to the northward by the said boun-"dary as far as the western extremity of the Bay de Chaleurs, "to the eastward by the said Bay and the Gulf of St. Law-"rence to the Bay called Bay Verte." A comparison of the boundaries shows them to be one and the same. A comparison of the boundaries further shows that the river St. Lawrence and the rivers emptying into it, are all clearly and distinctly placed in one class, and all other rivers, whether they fall into the Bay des Chaleurs, the Gulf of St. Lawrence, the Bay of Fundy, or any other Gulf, Bay or Sound, are placed in another distinct class, as rivers falling into the sea or Atlantic Ocean.

Examine the boundaries of the Province of Quebec, so far as the territory of the State of Maine is concerned, in the Proclamation of 1763, the act of Parliament of 1774 and in all the commissions of the Governors to the present day, and the southern boundary is uniform, by the highlands which divide the rivers &c. to the head of the Bay of Chaleur. Examine also the boundaries in the commissions of the Governors of the Provinces of Nova Scotia and New Brunswick and they are also uniform from 1763 to the present time, and they are bounded west by a line due north from the source of the river St. Croix to the Southern Boundary of the Province of Quebec, and northward by said boundary, as far as the western extremity of the Bay de Chaleurs, and to the eastward by said bay, the Gulf of St. Lawrence, &c. and what can be said of a pretence at this time, that the bay of Fundy is not, within

the true intent and meaning of all the boundaries, as established by the British and adopted by the treaty of 1783, a part and parcel of the Atlantic Ocean and included in that description of boundary ?

A brief notice of another class of facts may not be unimportant, as they tend to show the construction put upon the treaty boundary by legislators and agents of the British Government and their men of science.

In the session of Parliament in 1783 immediately succeedthe treaty, the ministry were charged with having made a bad bargain with the United States, by surrendering to them the country now in question; as it divided the British Provinces of Nova Scotia and Quebec. The charge was acknowledged by the Ministry, and their apology was that by giving the United States this territory it would secure a more lasting peace. The map published with the debates of that session shows the territory as claimed by us.

Judge Chipman, the British agent under the fifth article of the treaty of 1794 to settle what river was meant by the river St. Croix in the treaty of 1783, in his argument says—"It is "sufficient here to observe, that at the time the treaty of peace "was made in 1783, the Provinces of Quebec and Nova Scotia "belonged to and were in the possession of the Crown of Great "Britain and that his Britannic Majesty, at that time, had an "undoubted right to cede to the United States of America "such part of these territories as he might think fit; and that "in making the cession of the territory comprised within the "boundaries of the United States, as described in the second "article of the treaty of peace, *his Majesty must be supposed* "*to have used the terms describing these boundaries in the* "*sense in which they had been uniformly understood by the* "*British nation, and recognised in public documents and* "*acts of Government. In this sense, and in no other, could* "*they have been then understood, or can they now be claimed* "*or insisted upon by the United States.* The Province of "Nova Scotia at the time of the treaty of 1783, was, as has "already appeared, bounded to the northward by the southern "boundary of the Province of Quebec; which boundary was es-"tablished by the Royal Proclamation of the 7th October, 1763, "and confirmed by the Acts of the 14th of Geo. 3, chap. 83, "passed in the same year with the act of Parliament already ci-"ted, by which it is enacted that all the territories, islands and "countries in North America, belonging to the crown of Great "Britain, bounded on the south by a line from the Bay of

"Chaleur, along the highlands which divide the rivers that "empty themselves into the river St. Lawrence from those "which fall into the sea, to a point in forty five degrees of "northern latitude on the eastern bank of the River Connecti- "cut, &c., be annexed to and made a part and parcel of the "Province of Quebec."

"As, then, at the treaty of Peace of 1783 the northern "limit of Nova Scotia was along the highlands which divide "the rivers which empty themselves into the river St. Law- "rence from those which fall into the sea, *it unquestionably* "*follows that the North West Angle of Nova Scotia, at the* "*treaty of Peace of* 1783, *was the angle which was formed by a* "*line drawn due north from the source of the river St. Croix to* "*those highlands. If we compare this Angle with the North* "*West Angle of Nova Scotia described in the treaty of Peace,* "*viz: that Angle which is formed by a line drawn due north* "*from the source of the St. Croix River to the same highlands,* "*can it be said with any degree of propriety, that the limits* "*and boundaries of Nova Scotia were unknown at the time of* "*the treaty of peace of* 1783, *and that it therefore became* "*necessary to give it a western boundary by the treaty itself,* "*in these words to wit: that angle which is formed by a line* "*due north from the source of the river St. Croix to the high-* "*lands?*"

"*Can it be believed or for a moment imagined, that in the* "*course of human events, so exact a coincidence could have* "*happened between the actual boundaries of the Province of* "*Nova Scotia and the boundary of it described in the treaty,* "*if the latter had not been dictated and regulated by the* "*former?*"

"*Can any man hesitate to say he is convinced that the com-* "*missioners at Paris in* 1783, *in forming the 2d article of the* "*treaty of peace, in which they have so exactly described this* "*northwest angle*, had reference to, and were governed by the "boundaries of Nova Scotia as described in the grant to Sir "William Alexander, and *the subsequent alteration of the* "*northern boundary by the erection of the Province of Quebec?*"

Again the British maps published separately or annexed to their histories, travels &c. after the Proclamation of 1763 until 1815, all represent the line as claimed now by the State of Maine. The maps published during the time which elapsed between the Provisional Treaty and the definitive treaty of peace to wit:

Sager and Bennet's United States of America with the British Possessions, &c., London 9th February, 1783.

Bew's North America, &c, (or Rebel Colonies, now United States) engraved for the Political Magazine, London, 9th February, 1783.

J. Wallis', United States of America, &c., London, April, 1783,

J. Carey's United States of America, &c., London, July, 1783,

all show the lines, as all the preceding had done, and show the understanding of the people, and the nation, and no doubt were intended to aid in or illustrate the debates in Parliament. One of them at least was, as it appears from its title and the purpose to which it was applied. Thus far has been detailed the understanding of the British Government and the people, including the intelligent portion of them—when too the attention of the whole nation was distinctly called to the subject, when every circumstance was the most exciting, when every circumstance was as fresh as it could be in the recollection of every one, and when if there had been the slightest doubt or misapprehension, it would have appeared on the one or the other side, still the government and men of science all collectively express but one and the same opinion. The boundaries are recognized and understood to be, where they had been before established by the British Government, adopted by the treaty of 1783, and the State of Maine now insists they are.

Again at the time of the treaty of Ghent in 1814 the British Commissioners wished to purchase or acquire the territory or a part of it, for some equivalent in territory or otherwise. The whole appears in the correspondence between the commissioners of the respective Governments at the time the treaty of Ghent was made.

Again in 1817 when the Agents and Commissioners under the fifth article of the treaty of Ghent met and instructed the Surveyors to run the line according to the treaty of 1783 according to the authority given them by the aforesaid fifth article, they instructed the surveyors to run an exploring line, and also a permanent line from the monument at the source of the river St. Croix due north to the rivers, or a river emptying into the river St. Lawrence, and thence along the highlands dividing the rivers emptying into the river St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River. Thus far there appears to have

been no claim set up by the British to any part of the State of Maine, and had those instructions been throughout carried into full and complete effect, the controversy which now exists would have been long since settled; the boundary would have been established according to the ancient lines, and the treaty of 1783.

In 1818 the British Agent, Judge Chipman, had the address to procure the annulling of those instructions excepting so far as to continue the exploring line due north from the monument to a river emptying into the river St. Lawrence, leaving the line on the highlands dividing the rivers, &c., to the northwesternmost head of Connecticut River, excepting at a few points totally unexplored—even an exploring line was never run on that part of the boundary.

In the preceeding part of this report the boundaries have all been precisely and literally stated as contained in all the official acts of the British Government, to the present time, also the cotemporaneous construction of Parliament, and the understanding of their geographers, historians and men of science, and it may now well be asked by what authority do the provincial British Governments exercise any jurisdiction beyond the limits of their commissions, to tax, fine and imprison our citizens, and strip or suffer to be stripped the most available and valuable timber from our forests, and not only that, but interrupting and retarding the settlement of our domain consecrated by the toils and blood of our ancestors and secured to us by the solemn obligations of a treaty? The only answer is, by intrusion or invasion; their conduct has for a long time been an act or a succession of acts of war, and were the British to pursue such a course with any European nation of sufficient strength to meet her, (the Russian for instance) she would soon find herself involved in a war. It cannot fail to astonish every man of common sense that a nation, professing to be highminded and honorable, should so far depart from the course which they ought to pursue, as to attempt to wrest a portion of territory from the State of Maine, which all her official acts show so clearly belongs to it.

It may not be considered wholly unimportant to examine briefly the claim lately set up by the British Agents. The claim, if they are to be credited, originated in doubts and queries, and has been sustained by doubts and queries, mystifications and sophistries. They have been aided in their doubts and queries, no doubt, by the language and statements of the King of Holland, who seems to have had much difficulty, in not deciding

in favor of the U. States, and recommended a new boundary, on the ground, that inasmuch as the territory intervened between the British Provinces, and would interrupt their communication if it belonged to the United States, it could not be presumed that the British intended to give it up, when they and the United States made the treaty of 1783. At the same time the King did not spend much time in disposing of the new pretended claim of boundary, the British mountain range from Mars Hill.

Since the recommendation of the King of Holland the British appear to have taken courage, and say now the north-west Angle of Nova Scotia cannot be found according to the former description of boundaries and according to the treaty of 1783. The claim for a new boundary, when first promulgated by them, within a few years, appeared by their own statements to have originated in doubts, but not even now very tangible, but as far as they can be understood, they say Mars Hill is the North West Angle of Nova Scotia according to the treaty of 1783, and that a mountain range from thence extends to Mount Ktahdn. If they were to continue southwestwardly they might find other mountains, such as Mounts Bigelow, Abraham and Mount Washington the White Hills in New Hampshire, none of them having the slightest possible connexion with the sources of any streams emptyiug into the River St. Lawrence.

The British have taken good care not to explore the country with any accuracy, and only by distant views, where, by the force of a predisposition aided by imagination, from one and another place of observation, they could fancy detached mountains united in ranges, and could make out sketches accordingly. If they had been governed by fair and honest intentions, and a single desire to ascertain the truth, they would have surveyed the streams, the lands, especially the lands at the heads of the streams, flowing in different directions, and the mountains, and would have made maps showing accurately the true and exact features of the whole country; they would not have made and exhibited their fancy and imaginary sketches from Mar's Hill, Park's Farm, Ktahdn, and from the sources of the Main Penobscot River, laying down mountain ranges for many miles, where there are only lakes, level land, bogs and swamps. Such a course would not answer their purposes.

The British pretend that Mars Hill is the North West Angle of Nova Scotia according to the treaty of 1783. Where is Mars Hill? Does any stream or even spring flow

from it into the river St. Lawrence? The map shows its true position, that it is a detached eminence, surrounded by the river St. John and its tributary streams. The exploring line passes through a valley to the eastward of it, and southwest and north, it is divided from any thing like a mountain range, or even a hill, by rivers, low and level lands for several miles. It is more than a hundred miles from the rivers emptying into the river St. Lawrence, and so far from dividing the rivers emptying into the river St. Lawrence from those which fall into the Atlantic Ocean, it only divides streams and rivers emptying themselves into the river St. John. It cannot be approached in a due north line from the monument at the source of the St. Croix River, except by crossing Bull's Stream, the Meduxnekeag, Presqu' Isle and other streams all emptying into the river St. John; Mars Hill cannot therefore come within the boundary described in the treaty.

The North West Angle of Nova Scotia is on the south line of the Province of Quebec, at the heads of the rivers emptying into the River St. Lawrence. To have been consistent, the Province of New Brunswick ought not to have claimed and exercised jurisdiction so many miles in a due north line, north of the assumed North West Angle of the Province. The Province of Quebec ought to have claimed and exercised the jurisdiction from 1763 and ought not to have allowed Nova Scotia or New Brunswick to have gone any further north. The boundaries and the late claim are totally inconsistent.

It has already appeared that the British Surveyors were too cautious to survey the line they seemed to pretend to claim, being aware that a true developement of facts would overcome theory or statement—and such sketches as could be made from distant positions. On the map accompanying this report, the line from Mar's Hill is laid down according as the British claim it, from surveys made by Maine and Massachusetts of townships and the country on the line—and from surveys from Mar's Hill along the heads of the streams, to the carrying place between the north branch of Penobscot River and the south branch of the river St. John, made by Daniel Rose and George W. Coffin, land Agents of Maine and Massachusetts in 1828—and Daniel Rose in 1829, which show a few detached hills and fewer mountains, and that there is no continuous range of mountains uniting Mars Hill with Mount Ktahdn or in any other direction between the sources of the streams, as the British surveyors have reported, as having distinctly seen but

from remote points of observation. The hills and mountains are many miles assunder, divided by lakes, rivers and swamps, and level lands.

No one who examines the subject thoroughly, the long list of reiterated and positive evidence, and the late claim of the British, can suppose that the British ever expected to obtain it. However much it may reflect upon a nation calling themselves "*highminded and honorable*," it cannot be supposed that they ever expected, by any management, to obtain only a part to wit: a tract to the northward of the river St. John, to secure their intercourse between the Provinces.

If the subject is examined in all its bearings and consequences, it will be perceived that the territory north of the River St. John is the key stone of the arch, and if given up, leaves the whole territory watered by the river St. John and its tributaries, at the mercy of the British, and essentially a part of the Province of New Brunswick. They, by commercial or other regulations, can render the vast quantities of fine timber now standing and growing in that region valueless to the State of Maine; they may harvest the profits of the lumber and the industry of the people, and make them dependent, and prevent any thing but a nominal connection with the State.

If the right of passage be deserved by either party, by the British, between their Provinces through the State of Maine, or by the State of Maine between their terrritory and the sea, for either party to transport their mails or productions or whatever they please, there does not appear to be any very strong or reasonable objection to it. A reciprocal arrangement might be made, securing the rights of passage to each, which would be mutually beneficial, and to carry such arrangements into full and complete effect no cession of Territory by either party is necessary.

In a time of war the free use of the right of passage might be interrupted according to inclination or the force of the parties. A cession of territory by either party, will give to the party to whom the territory is ceded a decided advantage. The party who has the cession of territory can by regulations or by the conduct of her officers, whenever it sees fit, interrupt the passage, for which there will be no redress except through negotiation or war. Should it be thought advisable to grant a right of passage, and that too on reciprocal grounds, leaving the territorial jurisdiction where it now belongs, it would leave each party with equal rights and equal coercive powers,

and ensure the most lasting continuance to the arrangement.

A right on paper only, securing the free navigation of the river St. John to the State of Maine or the United States, as far as any opinion can be formed from the continual and daily violation, by the Province, of the most solemn acts of the British government, if the State of Maine yields the right of sovereignty of any portion of her territory at the north, would be of very little or no value. Her citizens in the transit of their lumber or their produce might be continually interrupted, their property might be detained, without their being able to procure redress during the period of their lives, as redress must depend upon a long protracted negotiation of which we have sufficient experience, or a war.

The Commissioners are preparing a map of the country to explain and illustrate the prominent parts and features presented in their report, and to which map reference has been repeatedly made. But the map not being completed, they can with this report deliver only a rough draft as far as they have made it, but will deliver a more perfect map of the country as far as past explorations and surveys furnish the authorities, as soon as it can be finished. Future explorations and surveys will, no doubt, develope new facts which can hereafter be added. It has been, and is, the intention of the Commissioners, to represent the great and prominent features of the country, its principal rivers and branches, and its mountains correctly, which they presume they shall accomplish, while many of the minor parts may be less accurate for the want of the proper authorities.

The map accompanying this Report is marked No. 1.

Gen. Irish's Plan is marked No. 2.

Wm. P. Parrott's Report and Plans are marked No. 3.

A copy of Col. Bouchette's vertical section, from the monument at the source of the river St. Croix, North ninety-nine miles, taken by him in 1817, while he was the principal British Surveyor under the fifth article of the Treaty of Ghent, is marked No. 4.

The Commissioners having been by their instructions directed to make further enquiries, they will, as soon as they can, make another report, embracing all the subjects to which their attention was called and which are not embraced in this Report.

JOHN G. DEANE,
M. P. NORTON,
JAMES IRISH. } Commissioners.

Augusta, Dec. 31, 1838.

LIBRARY OF CONGRESS
0 011 895 603 5